

COMMENTARIES
ON THE
U. P. Panchayat Raj Act

(U. P. ACT No. XXVI OF 1947)

(As amended—up-to-date)

Along with :

THE RULES & FORMS AND CASE LAW UP-TO-DATE

By

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of Holdings Act"*

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The United Provinces Panchayat Raj Act, 1947

(U. P. ACT NO. XXVI OF 1947)

AS AMENDED UP-TO-DATE

[Passed by the United Provinces Legislative Assembly on June 5, 1947, and by the United Provinces Legislative Council on September, 16, 1947.]

(Received the assent of the Governor General of the Dominion of India on December 7, 1947, under section 76 of the Government of India Act, 1935, and was published in the United Provinces Government Gazette, dated December 27, 1947.)

AN ACT, to establish and develop local self-government in the rural areas of the United Provinces.

WHEREAS it is expedient to establish and develop local self-Government in the rural areas of the United Provinces and to make better provision for village administration and development;

It is hereby enacted as follows :

Commentary

Statement of Objects and Reasons¹.—The United Provinces Village Courts Act, 1892, and similar other Acts, viz., U. P. Village Sanitation Act, 1892, Village Panchayat Act, 1920 were in force when this Act was passed by the U. P. Legislature. This Act is the embodiment of all the three Acts with developed and better provisions necessitated by the passage of time, change of outlook and progress of Society. The passing of the present Act was with a view to :—

- (1) establish and develop the Local Self-Government in the rural areas of Uttar Pradesh, and
- (2) make better provision for village administration and development.

This Act adopted many provisions of C. P. and Berar Panchayat Act, 1946 and many of the provisions of that Act have been simplified in this Act.

The Bill seeks to establish *Panchayats* in all villages on wider popular basis. It gives power to them to levy certain taxes, manage their funds,

1. For Statement of Objects and Reasons, see Notification No U. O. 70.—VI, dated August 8, 1946, published in *U. P. Gazette Extraordinary*, dated August 8, 1946, P. 3; for Report of the Select Committee, see *U. P. Gazette Extraordinary*, dated January 25, 1947, Part VII, pp. 15 and 21.

make bye-laws, prepare their budgets and maintain and establish schools and dispensaries, etc. It also contemplates the organization of a village volunteer corps for watch and ward and the creation of *Adalit Panchayats* distinct from village *Panchayats* with more substantial powers relating to the administration of civil and criminal justice than are conferred at present. The chief aim of the Bill is to revitalise village corporate life and instil in the people the spirit of self reliance and common endeavour to ameliorate their condition without depending too much on Government agencies.

Object.—The object of enacting U. P. Panchayat Raj Act as its preamble shows, is to make better provisions for the administration and the development of the villages in the State. It provides for establishment and to develop Local Self-Government in the rural areas of the State.¹

Preamble.—The Act as its preamble shows, has been enacted to establish and develop Local Self-Government in the rural areas and to make better provision for village administration. The idea underlying the Act is that the village people should in all minor cases be able to settle their own disputes through a local tribunal which is expected to be in touch with local conditions without any elaborate or complicated procedure.² The mere fact that the preamble does not mention that the U. P. Panchayat Raj Act was being enacted also for the purpose of constituting village courts and laying down a special procedure for trial of petty offences in village areas by such courts does not mean that the Legislature necessarily purported to act under Item No. 13 of List II and not under Items 1, 2, 5 and 15 of Schedule VII of the Government of India Act, 1935.³

The preamble of an Act provides a key to the intention of the Legislature enacting a statute. In cases where the enacting position of any Act is ambiguous or doubtful or produces in the ordinary meaning any absurdity or unreasonableness, the courts have to see the intention of the Legislature as embodied in its preamble.⁴ If the language employed is ambiguous, an interpretation that advances the object of the Act should be preferred to an interpretation that limits the fulfilment of that object.⁵ If the language of a Statute, admits two views, that view must not be adopted which leads to manifest public injustice, mischief or inconvenience.⁶

Interpretation of Statutes.—But the above rule will not apply where the words of enacting sections are quite clear and no doubt exists.⁷ Hardships or inconvenience cannot alter the meaning of the language employed by the Legislature if such meaning is clear on the face of the Statute or the rules.⁸ It is the primary duty of a court to give effect to the

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1. *Kesho Dutta v. Panchayati Adalat* 1953 A. L. J. (H. C.) 526 : 1953 A. W. R. (H. C.) 536 F. B.
 2. *Kesho Datt v. Panchayati Adalat*, 1953 A. L. J. 525 : 1953 A. W. R. (H. C.) 536 (F. B.)
 3. *Tej Bahadur Singh v. State* A. I. R. 1954 All. 665 : 1954 A. L. J. 681.
 4. *Shidovirappa, v. Shivalingappa* 1951 Bom : (F. B.) 127.
 5. *Mahmud Khan and others v. Narain* 1949 All. (F. B.) 210.
 6. *Sukhnandan Bali and others, v. Suraj Bali and others* 1951 Alld. F. B. 119.
 7. *Bhagwan Das v. Motichand* 1949 All. 612.
 8. *Commissioner of Agricultural Income Tax v. Keshab Chandra*, 1950 S. C. 265.

intention of the Legislature as is expressed in the words used by it. No outside consideration can be called in aid to find that intention.¹ In giving effect to the plain meaning, the courts are also entitled to consider the consequences which will fall upon alternative construction of the language used in order to assist it in determining the intention of the Legislature.² But in order to ascertain true meaning of the words used in an Act all the parts of a Statute must be construed together to avoid inconsistencies.³

The Courts should try to adopt that view which will not make any of the provisions redundant, that is, to try to harmonise the various provisions and not to lay down the law which can be said to have been the intention of the legislature.⁴

However, where self-conflicting provisions exist in the same enactment the latter shall prevail.⁵

Explanation.—An Explanation does enlarge the scope of the original section which it seeks to explain.⁶ Explanation added to a section is retrospective in effect.⁷ But it is not retrospective in the sense that it applies to suits already concluded.⁸

CHAPTER—I

Preliminary

Sec. 1. Short title, extent and commencement.—(1) This Act may be called "the United Provinces Panchayat Raj Act, 1947."

(2) It shall extend to the whole of the United Provinces except the area, which has been, or may hereafter be, declared as, or included in, a municipality or notified area under the provisions of the United Provinces Municipalities Act, 1916, or as a cantonment under the provisions of the Cantonments Act, 1924, or as a town area under the United Provinces Town Areas Act, 1914.

Explanation.—In this sub-section the expression 'Municipality' includes a municipal corporation established in accordance with the law for the time being in force.

(3) It shall come into force at once.

1. *New Piece Goods Buyer Co v. I. T. Commr.*, 1950 S. C. 165.

2. *Raghunath and another v. The Board of Revenue*. U. P. 1955, A. I. J. 414 (415).

3. *Kaja Mohammad v. Deputy Commissioner, Sitapur*, 1956, A. L. J. (F. B.) 20 : A. I. R. 1956 Alld. 453

4. *Sukhdev Singh v. Nirvachan Nirdeshak*, 1961 R. D. 179.

5. *Ibid.*

6. *Ram Sunder v. Shyam Sunder Lall*, A. I. R. 1951, Alld. (F. B.) 155.

7. *Chandrika Singh and others v. The Board of Revenue*, 1955, A. L. J. (H. C.) 883.

8. *Mattoo v. Roshan Singh*, 1955 A. L. J. (Rev.) 273.

Commentary

This section as amended by section 2 of Act II of 1955, came into force on February 5, 1955, vide notification no. 433/XXXIII-55 dated February 5, 1955, published in the U. P. Gazette Extraordinary, dated February 5, 1955.

Extent.—This Act extends to the whole of Uttar Pradesh except the areas included in a Municipality including Municipal Corporations, Town Areas Cantonments and Notified Areas. Originally the backward areas of Jaunsar Bawar Pargana of Dehra Dun District and the portions of Mirzapur District South of Kaimur Range were also excluded, but by the Amendment Act II of 1955, these areas have been included and the amended Act is in force in those areas as well.

Provision is also made in this section for the exclusion of any such areas in future which may hereafter be declared as or included in a Municipality, Town area, Notified area or a Cantonment area.

Extended application of the Act.—Since the enactment of this Act many princely States having merged in the State of Uttar Pradesh, this Act has been extended in its application to those areas as well. The application of this Act was *extended to whole of Rampur* by virtue of section 3 and Schedule I of the Rampur (Application of Laws) Act, 1950 (U. P. Act No. XII of 1950), vide Notification No. 1430/XVI—dated April, 25, 1950. To the *merged areas of Banaras State* by Notification No. 1431/XVII—dated April, 25, 1950, and to the *merged State of Tehri Garhwal* by Notification No. 1432/XVII—dated April 25, 1950. The above Notifications were issued by the U. P. Government in exercise of its power conferred by Section 3 of the Uttar Pradesh Merged States (Application of Laws) Act 1950 (U. P. Act No. VIII of 1950).

Commencement.—This Act came into force on 27th December, 1947, on its publication in the U. P. Gazette. The Act received the assent of the Governor-General of the Dominion of India on December 7, 1947 under Section 76 of the Government of India Act, 1935 and was published in the U. P. Government Gazette, dated 27th December, 1947.

Sub-section (3) provides that the Act shall come into force at once. There is no provision in section 110, which gives powers to the State Government, to postpone the coming into force of any portion of the Act.¹

Enforcement of the Act in the merged States of U. P.—By Notification No. 1430 XVII—dated April 25, 1950 this Act came into force in the merged *State of Rampur on and from May 1, 1950*. By Notification No. 1431/XVII—dated April 25, 1950, came into force in the merged *State of Banaras on and from May 1, 1950*; and by Notification No. 1432/XVII—dated April 25, 1950, in the merged *State of Tehri Garhwal on and from May 1, 1950*.

Since its enforcement the Act has been amended by various amending Acts and Ordinances which were applied from the date of their publication in the Gazette, except section 77-A, which has been given retrospective effect.

1. *State v. Badri* 1950 A. L. J. 564.

Section 29 came into force from January 31, 1956.¹ Section 31 came into force from March 15, 1956.² Sections 16 to 28 and sections 31, 32, 47, 69, 71, 80, 81, 84, 86 and 87 came into force from April 15, 1956.³ Section 46 of the Amendment Act came into force from May 1, 1956.⁴ Sections 38 and 76 came into force from June 1, 1956.⁵ Sections 35, 39, 40 to 45, 48 to 68, 70, 72 to 75, 77, 78, 79 and 83 came into force from July 31, 1956.⁶ Sections 2, 4 and 88 came into force from February 5, 1955.⁷ Sections 3 and 30 came into force from March 26, 1955.⁸

Power to remove difficulties.—Section 88 of the U. P. Amendment Act II of 1955 provides as follows : “(1) The State Government may, for the purpose of removing any difficulty particularly in relation to the transition from the provisions of the principal Act to the provisions of that Act as amended by this Act, by order published in the Official Gazette—

(a) direct that the Principal Act amended as aforesaid shall during the period of two years next after the commencement of this Act shall have effect subject to such adaptation whether by way of modification, addition or omission as it may deem to be necessary and expedient ;

(b) extend, for a period not exceeding two years or entail the term generally or of any particular Gaon Panchayat, or the members, Pradhan or Up-Pradhan, thereof or of any Nyaya Panchayat, or the Panches, Sahayak Sarpanch or Sarpanch thereof, any provision to the contrary in the Principal Act notwithstanding ; and

(c) make such other temporary provisions for the purpose of removing any such difficulty as aforesaid may be so specified.

(2) An order made under sub-section (1) shall have effect for a period of two years from the date of commencement of this Act.

Sec. 2. Definition.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Nyaya Panchayat” means a Nyaya Panchayat established under section 42 and includes bench thereof ;

(b) “adult” means a person, who has attained the age of twenty-one years ;

(c) “Criminal Case” means a criminal proceeding in respect of an offence triable by a Nyaya Panchayat;

1. Vide Notification No. 4864/XXXIII-10-55 dated January 21, 1956.

2. Vide Notification No. 1181/XXXIII-110-55 dated March 5, 1956.

3. Vide Notification No. 1598/XXXIII-110-55.

4. Vide Notification No. 1735/XXXIII-110-55 dated April 27, 1956 and 3144/XXXIII-110-55 dated July 26, 1956.

5. Vide Notification No. 1181/XXXIII-110-55 dated May 21, 1956.

6. Vide Notification No. 2814/XXXIII-110-55 dated July 13, 1956.

7. Vide Notification No. 433/XXXIII-110-55 dated February 5, 1955.

8. Vide Notification No. 1484/XXXIII-110-55 dated March 13, 1955.

- (d) "circle" means the area within which a Nyaya Panchayat exercises jurisdiction under section 42;
- (e) "Collector" or "District Magistrate" or "Sub-Divisional Magistrate, with reference to a Gaon Sabha, means the Collector, District Magistrate or Sub-Divisional Magistrate of the district or the subdivision, as the case may be, in which such Gaon Sabha is constituted; and shall respectively, include "Additional Collector", "Additional District Magistrate" and "Additional Sub-Divisional Magistrate".
- (f) "Zila Parishad" and 'Parishad' shall have the meanings assigned to them under clause (11) of section 2 of the Uttar Pradesh Kshetra Samitis and Zila Parishads Adhiniyam, 1961.¹
- (g) "Gaon Sabha" means a Gaon Sabha established under section 3;
- (h) "Gaon Panchayat" means the Executive Committee of the Gaon Sabha constituted² under section 12;
- (i) "Joint electorate system" means a system under which the electors belonging to all communities vote jointly as prescribed and not as electors of separate communities;
- (j) * * * *
- (k) "Munsif", with reference to a Gaon Panchayat, means the Munsif having local jurisdiction in the area in which such Gaon Panchayat is constituted;
- [(kk) 'Nirvachan Nideshak (Panchayat)' means an officer appointed by the State Government in this behalf by notification in the official *Gazette* and any officer to whom the Nirvachan Nideshak (Panchayat) delegates any of his powers and functions shall be deemed to be Nirvachan Nideshak (Panchayat) for the purposes of the exercise or performance of such power or function.]³

1. Clause (f) has been substituted vide sch. V III of U. P. Act No. XXXIII of 1961. The old clause (f) was as follows :

(f) "district board," with reference to a Gaon Panchayat, means a district board established under the United Provinces District Board Act, 1922, in the district in which such Gaon Panchayat is constituted.

2. Sub. by section 2 (a) of U. P. Act XV of 1960.

3. Added *ibid.*

- (l) "population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (m) 'revenue case' means a case under the United Provinces Land Revenue Act, 1901, or the U. P. Zamindari Abolition and Land Reforms Act, 1950, or any other law relating to land tenure triable by a Nyaya Panchayat;
- (mm) 'Public property' and 'public land' means any public building, park or garden or other place to which for the time being the public have or are permitted to have access whether on payment or otherwise;"
- (n) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
- (o) "public street" means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along, and includes on either side the drains or gutters and the land up to the defined boundary of any abutting property notwithstanding any projection over such land of any verandah or other superstructure but does not include any such road, street, bridge, lane, square, court, alley or passage owned, maintained or repaired by the State Government or the Central Government or any other local authority;"
- (p) "prescribed" means prescribed by this Act or rules made thereunder;
- [“(q) ‘prescribed authority, means—
 - (i) for the purposes of the provisions of this Act mentioned in Schedule III of the Uttar Pradesh Kshettra Samitis and Zila Parishads Adhiniyam, 1961, the Zila Parishad or the Kshettra Samiti, as may be specified in column 3 of that Schedule; and
 - (ii) in respect of any other provisions of this Act, the authority notified as such by the State Government whether generally or for any particular purpose.]”¹

1. Clause (q) has been substituted vide Sch. VIII of U. P. Act XXXIII of 1961.
The old clause (q) was as follows :—

(g) "prescribed authority" means an authority to be notified as such by the State Government whether generally or for any particular purpose;

- (r) * * * *
- (s) "Civil case" means a case civil triable by a Nyaya Panchayat;
- (ss) 'Sub-Divisional Officer' includes an additional Sub-Divisional Officer designated or appointed as such by the appropriate authority;
- (t) "village" means any local area, recorded as a village in the revenue records of the district in which it is situate;
- (u) * * * *
- (v) * * * *
- (w) "Scheduled castes" means the castes deemed to be Scheduled Castes under the Constitution of India;
- "(x) 'Bhumi Prabandhak Samiti' means a Bhumi Prabandhak Samiti established or deemed to be established under section 28-A."¹

Commentary

Clause (c)—Case.—The word "case" means a criminal proceeding in respect of the incidents complained of the fact whether the incidents make out one particular offence or several offences.²

Clause (e).—The Additional Sub-Divisional Officer is not just another Sub-Divisional Officer. The amendment of the Act made by U. P. Act XIX of 1957 is practically infructuous and does not in any manner validate the appointments of any person as Additional Sub-Divisional Officer.³ Under the Act and the Rules the term 'Sub-Divisional' Officer designate the Assistant Collector 1st Class in charge of a Sub-Division.⁴

Clause (n).—“Public servant”.—This term has been defined in section 21 of the Penal Code. It runs as follows:—

"21. “Public servant”.—The words “public servant” denote a person falling under any of the descriptions hereinafter following namely:—

* * * * *

Second.—Every Commissioned Officer in the Military, Naval or Air Forces of India.

Third.—Every Judge;

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact,

1. Clause (x) has been added by Sch. VIII of U. P. Act No. XXXIII of 1961.

2. *Shafi Ahmad v. State* 1952 A. L. J. 674.

3. *Govind Pd. v. Shiv Kumar* 1958 R. D. 317.

4. 1957 A. L. J. 379.

or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant ;

Sixth.—Every arbitrator or other person to whom any case or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth.—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience.

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, in any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government, and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty ;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make, any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district ;

Eleventh.—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

Clause (w) — Scheduled castes.—The communities named herein below are deemed to be Scheduled Castes in Uttar Pradesh, under Article 341 of the Constitution of India¹ :—

1. Throughout the State.

- | | |
|---------------------------------------|---------------------------------|
| 1. Agariya, | 33. Dusadh, |
| 2. Badi, | 34. Gharami, |
| 3. Badbik, | 35. Ghasiya, |
| 4. Baheliya, | 36. Gual, |
| 5. Baiga, | 37. Habura, |
| 6. Baiswar, | 38. Hari, |
| 7. Bajaniya, | 39. Hela, |
| 8. Bagji, | 40. Kalabaz, |
| 9. Balahar, | 41. Kanjar, |
| 10. Balai, | 42. Kapariya, |
| 11. Balmiki, | 43. Karwal, |
| 12. Bangali, | 44. Khairaha, |
| 13. Banmanus, | 45. Kharot, |
| 14. Bansphor, | 46. Kharwar excluding Benbansi, |
| 15. Barwar, | 47. Khatik, |
| 16. Basor, | 48. Kol, |
| 17. Bawariya, | 49. Korwa, |
| 18. Beldar, | 50. Lalbegi, |
| 19. Beriya, | 51. Majhwar, |
| 20. Bhantu, | 52. Mazhawi, |
| 21. Bhuiya, | 53. Musahar, |
| 22. Bhuyiar, | 54. Nat, |
| 23. Boria, | 55. Pankha, |
| 24. Chamar, Dhusia, Jhusia or Jatava, | 56. Parahiya, |
| 25. Chero, | 57. Pasi or Tarmali, |
| 26. Dabgar, | 58. Patari, |
| 27. Dhangar, | 59. Rawat, |
| 28. Dhanuk, | 60. Saharya, |
| 29. Dharkar, | 61. Sanaurhiya, |
| 30. Dhobi, | 62. Sansiya, |
| 31. Dom, | 63. Shilpkar ; |
| 32. Domar, | 64. Turaiha. |

2. Throughout the State excluding Agra, Meerut and Rohilkhand divisions :—

Kori.

3. In Bundelkhand division and the portion of Mirzapur district south of Kaimur Range :—

Gond.”

1. Vide Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, (Act 63) of 1956, Gazette of India, (Extraordinary), page 992, Part II, Section 1, dated September 26, 1956.

CHAPTER II

Establishment and Constitution of Gaon Sabhas

Sec. 3. *Establishment and constitution of Gaon Sabhas and their jurisdiction.*—(1) The State Government shall, by notification in the official *Gazette*, establish a Gaon Sabha for every village or group of villages.

(2) The State Government shall declare the name and the territorial jurisdiction of the Gaon Sabha in the notification mentioned in sub-section (1), and may at any time, by notification in the official *Gazette*, either on its own motion or of a Gaon Sabha or of the residents of any village, include any area in or exclude any area from the area of a Gaon Sabha and make such incidental and consequential orders as may be necessary for effecting the change.

(3) Where by notification under sub-section (2) any area is included in the jurisdiction of a Gaon Sabha, such area shall thereby become subject to all notifications, rules, regulations, bye-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Gaon Sabha.

Commentary

Amendment.—Section 3 (2) as amended by section (2) U. P. Act VI of 1952, came into force from February 7, 1952 vide Section 1 (2) of the same Act.

Validity.—Under the Act the membership of Gaon Sabha is voluntary and not compulsory. Hence Gaon Sabha established under the Act is not unconstitutional.¹

Establishment of Sabhas.—See Rule 3-A.

Notification for re-establishment.—Formerly under the original Act XXVI of 1947 (U. P. Panchayat Raj Act) 36,300 Gaon Sabhas and Panchayats were established in all the districts of U. P. by notifications published in the U. P. Gazette Part III (c) between 21st August, 1948 to 27th November, 1948.

On amendment of the original Act by Amendment Act 11 of 1955, the number of Gaon Sabhas have been increased to 72,188 from 1st June, 1955.

The newly reconstituted Gaon Sabhas have been established in all the districts of the U. P. by notifications published in the U. P. Gazette, dated 21st May, 1955 and 28th May, 1955, Part III-G. The functioning of all the Gaon Sabhas began a new from 1st April, 1956.

Sec. 4. Incorporation of Gaon Sabha—Every Gaon Sabha shall, by the name notified in the official *Gazette*, under section 3,

1. *Surya Pal Singh v. U. P. Government*, 1951 All. (F. B.) 674,

be a body corporate having perpetual succession and a common seal and shall, subject to any restriction or condition imposed by or under this or any other Act, have power to acquire, by purchase, gift or otherwise, to hold, administer, and transfer property both movable and immovable, and to enter into any contract and shall, by the said name, sue or be sued.

Commentary

"Gaon Sabha shall sue or be sued".—Suit must be in the name of Gaon Sabha,¹ but defect can be cured where there is no doubt that real plaintiff is Gaon Sabha;² The word 'sue' will also include execution proceedings.³

Sec. 5. Membership of Gaon Sabha.—(1) A Gaon Sabha shall consist of all adults ordinarily resident within the area for which it is established but a person shall be disqualified for being a member of the Gaon Sabha if he—

- (a) is not a citizen of India ; or
- (b) is of unsound mind and stands so declared by a competent court.

(2) A person shall be deemed to be ordinarily resident in a village if he has been ordinarily residing in such village or towns, or is in possession of a dwelling house therein, ready for occupation.

Commentary

Amendment.—This section as amended by section 5 of U. P. Act II 1955 came into force from April 25, 1955; Vide Notification No 1957/ XXXIII-110—55 dated April 25, 1955 published in the U. P. Extraordinary Gazette, dated April 25, 1955.

Membership.—Only those persons whose names exist in the register of members of Gaon Sabha are the qualified members. Person who may be otherwise qualified to be a member but whose name is not entered in the members' register is not a member and is not entitled to be elected as a Pradhan.⁴

So if a person is recorded in the Adult Register, he would be entitled to vote even though he may be a minor.⁵ However, in *Babu Ram v. State of U. P.*, it was held by the High Court that the entries in the register of members are not conclusive and the S. D. O. is competent to decide the correctness of the age of the person elected.

1. 20 Alld. 494.

2. 75 I. C. 936.

3. *Union of India v. Mohan Chandra*, 1952 Calcutta 152.

4. *Ram Santri v. S. D. O. Mundha*, 1958 A. L. J. 221 : 1958 R. D. 239.

5. *Ram Singh v. S. D. O. Chunaw*, 1958 A. L. J. 475 ; 1958 A. W. R. (H. C.) 276.

6. *Babu Ram v. State of U. P.* 1959 R. D. 114 ; 1959 A. L. J. 457.

Register so republished shall be final—Meaning of.—The finality attaches to the form of the register and not to the correctness of the entries made therein. Hence the entries in the register are not final and the S. D. O. is competent to decide the correctness of the age of the person elected.¹

Validity.—Old Rule 19B (1) provided that “No person who is not, and except as expressly provided by the Act is, for the time being entered in the Adult Register pertaining to the constituency shall be entitled to vote in that constituency.” This old Rule was held to be not consistent with the provisions of section 5 of the Act and hence was held to be invalid. The inconsistency of this Rule and section 5 lies in the fact that a person cannot be a member of a Gaon Sabha unless *inter alia* he is ordinarily a resident within the area for which it is established.²

Form of the Register.—See Rule 4-A.

Sec. 5-A. Disqualification for holding office under Gaon Sabha or Nyaya Panchayat.—A person shall be disqualified for being chosen, nominated or appointed to, and for holding any office in the Gaon Sabha or the Gaon Panchayat, or the Nyaya Panchayat constituted under section 42, if he—

- (a) is for the time being not a member of the Gaon Sabha concerned,
- (b) holds any office of profit under a State Government or the Central Government or a local authority (other than a Gaon Sabha or Nyaya Panchayat),
- (c) is a salaried servant of a Gaon Sabha or a Nyaya Panchayat,
- (d) has been dismissed from the service of a State Government, the Central Government or a local authority or a Nyaya Panchayat for misconduct,
- (e) is in arrears of any tax, fee or rate due by him to the Gaon Sabha for such period as may be prescribed,
- (f) is suffering from leprosy,
- (g) is an undischarged insolvent,
- (h) has been convicted of an offence involving moral turpitude,
- (i) has been ordered to give security for good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898,

1. *Babu Ram v. State of U. P.* 1959 R. D. 144.

2. *Laiu v. Umrao* 1961 R. D. 123 : 1961 A. L. J. 6.

- (j) has been sentenced to imprisonment for a term exceeding six months or to transportation for contravention of any order made under the Essential Supplies (Temporary Powers) Act, 1946, or the U. P. Control of Supplies (Temporary Powers) Act, 1947,
- (k) is convicted of an election offence,
- (l) is convicted under the U. P. Removal of Social Disabilities Act, 1947 or the Untouchability Offences Act, 1955,
- "(m) is blind or dumb ; or
- (n) has been removed from office under sub-clause (iii) or (iv) of clause (g) of sub-section (1) of section 95 unless such period as has been provided in that behalf in the said section or such lesser period as the State Government may have ordered in any particular case has elapsed :"

"Provided that the period of disqualification under clauses (d), (g), (h), (i), (j), (k), or (l) shall be five years from such date as may be prescribed :

Provided further that the disqualification under clause (e) shall cease upon payment of arrears :

Provided also that a disqualification under clauses (d), (g), (h), (i), (j), (k) or (l) may, in the manner prescribed, be removed by the State Government."

Commentary

Amendment.—This section as amended by section 6 of U. P. Act II of 1955 came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55 of the same date. Clauses (m) and (n) have been added by U. P. Panchayat Raj Amendment Act, 1957.

Scope.—The Mukhia is not a Government servant as contemplated by the section.¹ By merely sending his resignation a person cannot be deemed to be out of office and a person may withdraw his resignation before it is accepted.²

Clause (e).—This disqualification under clause (e) ceases as soon as the full arrears are paid.³

Clause (h).—B. Mukerji, J. on a difference between Mootham, C. J. and Dayal, J. observed that the phrase "moral turpitude" refers to acts of baseness acts which have an element of vileness or acts which are harmful

1. *Swami Nath v. S. D. O' A. I. R. 1958 All. 660.*

2. *Devi Pd. Pandey v. S. D. O. 1960 R. D. 61.*

3. *Munna Singh v. Narain Singh, 1960 R. D. 64.*

to society in general or contrary to the accepted rules of right and duty between man and man : it may be that same acts involve moral culpability in a larger degree than other acts, but nevertheless all such acts do involve moral culpability. What the legislature wanted to penalise was all acts involving moral turpitude whether their degree was large or small. Hence the conviction of a person under section 13 of the Public Gambling Act, 1867 would constitute a disqualification within the meaning of section 5-A (h) and the election of such a person as a Pradhan was liable to be set aside on an election petition.¹ No date whence the period of disqualification for five years appears to have been prescribed so far and therefore the result is that the disqualification on the ground of conviction is operative so long as the conviction remains in force.²

Office of Profit.—A contractor who has purchased in auction from the District Board the right to ply ferry is not a holder of office of profit under the District Board.³

Form of the Register.—See Rule 4-A.

Disqualifications.—See Rules 13, 13-A, 15 and '8-B.

Sec. 5-B. Qualification for holding office of Pradhan.—A member of a Gaon Sabha shall not be qualified to be chosen as Pradhan unless he is not less than 30 years of age.

Commentary

Amendment.—This section as newly added by section 6 of U. P. Act II of 1955 came into force from April 25, 1955—Vide Notification referred to in section 5-A.

Duty of Returning Officer.—The duty has been cast on the returning officer to decide whether the candidate is qualified under the Act or he suffers from any of the disqualifications mentioned in this section.⁴

Sec. 6. Cessation of membership.—(1) A member of a Gaon Sabha shall cease to be a member if—

- (a) he is disqualified under section 5,
- (b) the area where he resides has been excluded from the jurisdiction of the Gaon Sabha, or
- (c) he has ceased to be ordinarily resident within the jurisdiction of the Gaon Sabha.

(2) Where any person ceases to be a member of a Gaon Sabha under sub-section (1) he shall also cease to hold any office

1. *Shiva Nand v. S. D. O. Chunar*, 1961 R. D. 186.

2. 1959 R. D. 159.

3. *Dharam Singh v. S. D. O.* 1958, A. L. J. 144.

4. *Ram Kishun Singh v. Ram Raj Singh*, 1958 R. D. 82.

to which he may have been elected, nominated or appointed by reason of his being a member thereof.

Commentary

Amendment.—This section as amended by section 7 of the Amendment Act II of 1955 came into force from April 25, 1955—Vide notification referred to in the notes under section 5-A.

Disqualification.—It contains conditions necessary for continuance of membership.¹ Minority is not a disqualification contemplated by Section 6 or sub-rule (2) of Rule 19. The continued effect of Rules 5 and 19-B is that even if the name of a person is wrongly recorded in the Adult Register he is entitled to vote.²

Sec. 6-A. Decision on question as to disqualification.—If any question arises as to whether a person has become subject to any disqualification mentioned in sections 5, 5-A or 5-B or in sub-section (1) of section 6, the question shall be referred to the prescribed authority for the decision and his decision shall, subject to the result of any appeal as may be prescribed, be final, and the name of the person shall, if necessary, be struck off from the register of members.

Commentary

Amendment.—This section is newly added by section 8 of U. P. Act II of 1955 and came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55, dated April 25, 1955 published in the U. P. Gazette Extraordinary, dated April 25, 1955.

Applicability.—The operation of this section should be confined to cases where the question arises during proceedings other than election proceedings. When any question arises as to whether the returning officer or the election tribunal have acted legally or not the provisions that are to be followed are the provisions of the Act concerning election.³ This section has no application to the powers of the Sub-Divisional Officer hearing an election petition and the procedure he shall follow thereat.⁴

Disposal of claims and objections.—See Rule 4-J.

Sec. 7.

* * * *

Commentary

Amendment.—Section 7 is deleted by section 9 of U. P. Act II of 1955 and came into force—Vide notification referred to in the notes of section 6-A.

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1. *Ram Sanchi v. S. D. O. Mandha*, 1958 A. L. J. 221.
 2. *Ram Singh v. S. D. O. Chunari*, 1958, A. L. J. 203 : 1958 A. W. R. (H. C.) 276.
 3. *Ram Kishun Singh, v. Ram Raj Singh*, 1958 R. D. 82.
 4. *Amar Nath Singh v. S. D. O.* 1959 R. D. 59.

Sec. 8. Effect of change in population or inclusion of the area of a Gaon Sabha in municipalities etc.—If the whole of the area of a Gaon Sabha is included in a municipality, cantonment, notified area or town area, the Gaon Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

Commentary

Changes in jurisdiction of Sabhas.—See Rule 3-A.

***Sec. 9. Register of members.**—(1) On the establishment of a Gaon Sabha the prescribed authority shall cause to be prepared a register, in the prescribed form, of all persons ordinarily residing within the jurisdiction of such Gaon Sabha and such register shall, among other things, contain the names of every person entitled under section 5 to be a member of the Gaon Sabha on the date of its establishment. The register so prepared shall be revised at least once a year in the manner prescribed.

[(2) Notwithstanding anything contained in this Act, no person who is not, and every person who is, for the time being entered in the register as member, shall be entitled to vote at any election or in any other proceeding under this Act or the rules framed thereunder, or to be elected, nominated or appointed to any office in the Gaon Sabha, Gaon Panchayat or Nyaya Panchayat]

Commentary

Enforcement.—The section as amended up-to-date was enforced from April 25, 1955—Vide Notification No. 1957/ XXXIII—110—55 dated April 25, 1955, published in the Gazette Extraordinary of the same date.

Entries in Register.—The entries in the register of members are not conclusive and the Sub-Divisional Officer is competent to decide the question about the correctness of age of the person elected and is not bound to accept the entries in the register of members as correct.¹

Membership.—In order to know who is or is not a member of the Gaon Sabha at a relevant time, the entry in the register is the deciding factor. Only such members whose names exist in the Members's Register are members of the Gaon Sabha concerned. Hence a person whose name is not entered in the Register of members is not entitled to be elected to the office of the Pradhan.²

Sec. 10. Removal of difficulty in the establishment of Gaon Sabha and in the working of a Gaon Panchayat.—If, in establishing

***Leg. Changes.**—The original section 9 has been renumbered as section 9 (1) and sub-section 9 (2) newly added by U.P. Act XV of 1960 date, 24th August, 1960.

1. *Babu Ram v. State of U. P.* 1959 R. D. 144.

2. *Ram Sanehi v. S. D. O.* 1958 A. L. J. 221.

a Gaon Sabha or in the working of a Gaon Panchayat, any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

CHAPTER—III

The Gaon Sabha : Its Meetings and Functions

Sec. 11.. Meetings of Gaon Sabha.—(1) Every Gaon Sabha shall hold two general meetings in each year soon after harvesting of the *kharif* crop (hereinafter called the *kharif* meeting), and the other soon after harvesting of the *rabi* crop (hereinafter called the *rabi* meeting):

Provided that the Pradhan at any time may, or upon a requisition in writing by the prescribed authority or by not less than one-fifth of the number of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the Gaon Sabha shall be published in the prescribed manner:

Provided further that where the Pradhan fails to call a meeting as aforesaid the prescribed authority may do so within a period to be prescribed.

(2) For any meeting of the Gaon Sabha one-fifth of the number of members shall form the quorum ; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

Commentary

Enforcement.—This section as amended came into force from April 25, 1955—Vide Notification No. 1957/XHXIII—110—55 dated April 25, 1955, published in the U. P. Gazette Extraordinary dated April 25, 1955.

Sec. 11-A.—Pradhan and Up-Pradhan of Gaon Sabha.—There shall be a Pradhan and an Up-Pradhan of the Gaon Sabha.

Sec. [11-B. Election and term of Pradhan.]—(1) The Pradhan shall be elected by the members of the Gaon Sabha from amongst themselves in such manner as may be prescribed :

*Leg. Changes :—(1) Section 11-B has been substituted by U. P. Act No. XV of 1960. The old Section 11-B was as follows :—

11-B. *Election of Pradhan.*—The Pradhan shall be elected by the members of the Gaon Sabha from amongst them in such manner as may be prescribed.

(2) Subject to the provision of section 12-H, the term of office of the Pradhan shall be 5 years, or, if the State Government so declares by notification in the official gazette, such longer term not exceeding 6 years as it may fix.

(3) The declaration under sub-section (2) may be notified before the expiry of 5 years aforesaid, or, where the term has been enlarged, before the expiry of such enlarged term.

Provided that when a Gaon Sabha has failed to so elect, it shall be called upon to elect the Pradhan, but if it again fails; it shall be lawful for the State Government or the prescribed authority to nominate as Pradhan, a member of the Gaon Sabha qualified to be chosen as Pradhan and the person so nominated shall be deemed to have been duly elected.

(2) The term of a Pradhan shall commence from the date of the constitution of the Gaon Panchayat or from the date of his being elected or nominated, whichever is later, and unless otherwise determined under the provisions of this Act, shall expire with the term of the Gaon Panchayat.]

Commentary

Enforcement.—Section 11-A and 11-B as added by section 12 of U.P. Act 11 of 1955 came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55 dated April 25, 1955, published in the U. P. Gazette Extraordinary, dated April 25, 1955. Sec. 11-B has been again substituted by the U. P. Act XV of 1960.

Validity.—The State Government cannot make a valid rule which will have the effect of varying the provisions of section 11-B. Hence the old rule 19-B (1) which purported to confer upon every person whose name was for the time being entered in the Adult Register relating to Gaon Sabha the right to vote at an election to choose the Pradhan was held to be invalid.¹

Sec. 11-C.—Election of Up-Pradhan.—(1) The Up-Pradhan of the Gaon Sabha shall be elected annually by the Gaon Panchayat from amongst its members in such manner as may be prescribed.

(2) The term of office of Up-Pradhan shall be one year from the date of his election.

Commentary

Enforcement—This section came into force from April 25, 1955—Vide notification referred to in the notes under section 11-B.

Sec. 11-D. Prohibition against holding certain office simultaneously.—No person shall simultaneously—

- (a) be the Pradhan of a Gaon Sabha and a member (other than *ex-officio*) of a Gaon Panchayat or a Panch of a Nyaya Panchayat ; or

1. *Lal v. Umrao* 1961 A. L. J. 6 ; 1961 R. D. 123.

Legislative Changes :—Sections 11-D and 12 have been substituted by U. P. Act No. XV of 1960. The old section 11-D and 12 was as follows :—

[11-D. Prohibition of holding office simultaneously in Gaon Panchayat, Nyaya Panchayat and in more than one Gaon Sabha.—No person shall simultaneously hold any office—

(Continued to next page i.e. page 20)

- (b) be a member of a Gaon Panchayat and a Panch of a Nyaya Panchayat ; or
- (c) be a member of a Gaon Panchayat from more than one constituency ;
- (d) hold any office in more than one Gaon Sabha, Gaon Panchayat or Nyaya Panchayat ;

and the rules may provide for the vacation of all but one office by any person chosen to fill offices which he cannot hold simultaneously.]

Commentary

Vacation of office.—See Rule 23.

Sec. 12. Constitution of Gaon Panchayat.—(1) As soon as may be, after the establishment of the Gaon Sabha there shall be constituted an Executive Committee thereof called the Gaon Panchayat.

(2) Unless terminated earlier under section 12-G, the term of every Gaon Panchayat shall be five years or, if the State Government so declares by notification in the official *Gazette*, such longer term not exceeding six years as it may fix.

(3) The declaration under sub-section (2) may be made before the expiry of the five years aforesaid, or when the term has been extended, before the expiry of such extended term.

(4) There shall be a general election in the manner prescribed to constitute or re-constitute Gaon Panchayats.

(Continued from page 19)

- (a) both in the Gaon Panchayat and Nyaya Panchayat, or
- (b) in more than one Gaon Sabhas, and the rules may provide for the vacation by a member who is so chosen to two such offices under section 11-B or 11-C above of one or the other office.

12. Establishment and constitution of Gaon Panchayat.—(1) As soon as may be after its establishment, every Gaon Sabha shall elect from amongst its members an Executive Committee called the Gaon Panchayat.

(2) The number of members, of a Gaon Panchayat shall be such as may be prescribed and the Pradhan shall be *ex-officio* member thereof. The Pradhan and the Up-Pradhan shall also be *ex-officio* Pradhan and Up-Pradhan of the Gaon Panchayat.

(3) Subject to the provision of section 12-H, the term of office of a member of a Gaon Panchayat shall be 5 years, or, if the State Government so declares by notification in the official *Gazette*, such longer term not exceeding 6 years as it may fix.

(4) The declaration under sub-section 3 may be notified before the expiry of 5 years aforesaid, or, when the term has been enlarged before the expiry of such enlarged term.

(5) The Constitution of a Gaon Panchayat shall be notified in such manner as may be prescribed and thereupon the Gaon Panchayat shall be deemed to have been duly constituted, and vacancy therein notwithstanding :

Provided that the prescribed authority shall not so notify till at least two-thirds of the members of the Gaon Panchayat and the Pradhan have been elected or nominated.

(6) The area of a Gaon Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election.

(7) The members of a Gaon Panchayat shall be elected by the members of the Gaon Sabha from amongst themselves. Their number shall be such as may be prescribed and the Pradhan and Up-Pradhan shall *ex-officio* be the Pradhan and Up-Pradhan of the Gaon Panchayat.

(8) The term of member of Gaon Panchayat shall, unless otherwise determined under the provisions of this Act, expire with the term of the Gaon Panchayat.

(Contd. from page 20)

(5) The area of a Gaon Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election.

(6) The election of the members of a Gaon Panchayat shall be held on joint electorate system in such manner as may be prescribed and the rules may provide for the payment of fees.

(7) Seats shall be reserved for scheduled castes in the Gaon Panchayat and the number of seats so reserved shall bear as may be the same proportion to the total number of seats in the Gaon Panchayat as the population of the scheduled castes in the area of the Gaon Sabha bears to the total population of such area :

Provided that this sub-section shall cease to have effect on and from the twenty-sixth day of January, 1960 :

Provided further that nothing in the preceding proviso shall affect any representation in a Gaon Panchayat until the dissolution thereof.

Provided also that for purposes of determining the due representation of Scheduled Castes in any Gaon Panchayat any person elected to a seat reserved for such castes but who may have been subsequently appointed to the Nyaya Panchayat under section 43 shall be taken into account.

(8) Where a Gaon Sabha has failed to elect the full number of members prescribed under sub-section (2) it shall be called upon to elect the remaining number of members, but if it again fails to elect the full number of remaining members it shall be lawful for the State Government or such authority as may be prescribed to fill in the seats so remaining vacant by nomination from amongst the members of the Gaon Sabha and any member so nominated shall be deemed to have been duly elected.

(9) Seats shall be reserved for the Schedule Castes in the Gaon Panchayat and the number of seats so reserved shall bear as nearly as may be the same proportion to the total number of seats in the Gaon Panchayat as the population of the Scheduled Castes in the area of the Gaon Sabha bears to the total population of such area :

Provided that this provision shall have effect only up to the date up to which reservation for such castes exists under the Constitution of India :

Provided further that nothing in the preceding proviso shall affect any representation in a Gaon Panchayat until a fresh election is held.

(10) Where a Gaon Sabha has failed to elect the full number of members prescribed under sub-section (7), it shall be called upon to elect the remaining number, but if it again fails to elect the full number ; it shall be lawful for the State Government or the prescribed authority to fill in any seat so remaining vacant by nomination from amongst the members of the Gaon Sabha and any person so nominated shall be deemed to have been duly elected."

Commentary

Who may sue.—For vindicating the right of the Gram Samaj to hold a market on its own land, the Gaon Sabha constituted under the Act may sue or be sued. The Gram Panchayat being an executive Committee of the Gaon Sabha cannot institute a writ petition to vindicate the infringement of its rights.¹

Sec. 12-A. Manner of Polling—A member of a Gaon Sabha shall—

- (a) in the case of election of member of a Gaon Panchayat—
 - (i) vote in person and by show of hand ;
 - (ii) be entitled to vote only in the constituency of the Gaon Sabha of which he is a member ; and
 - (iii) have as many votes as there are contesting candidates, so, however, that no member shall cast more than one vote in favour of the same candidate ;
- (b) in the case of election of Pradhan of a Gaon Sabha — cast vote by marking the ballot paper at the place of polling in the manner prescribed.

1. *Gaon Panchayat v. D. M. Aligarh 1960 R. D. 313.*

Sec. 12-A is substituted by Art III of 1961. The old section runs as follow—

'12-A. Number of persons to be elected for Gaon Panchayat and Nyaya Panchayat.—For the purpose of electing members of a Gaon Panchayat, the Gaon Sabha shall elect from its members such number as shall exceed by five (or if any lesser number is fixed in any case as shall exceed by such number) the number prescribed under sub-section (7) of section 12 but only such of them as remain after the prescribed authority has selected five persons or such lesser number as aforesaid under section 13 for membership of the Nyaya Panchayat shall be members of the Gaon Panchayat.'

Sec. 12-B. Additional members.—In addition to the members prescribed under section 12 the State Government may, by a general or special order, direct that one or more members of the Prantiya Rakshak Dal having such qualifications as may be prescribed shall have the right to speak in and otherwise to take part in the proceedings of the Gaon Panchayat or any committee thereof as may be specified. Such person shall not, however, by virtue of this sub-section be entitled to vote in the meetings of the Gaon Panchayat or the committees.

[**Sec. 12-BB. Superintendence of Elections.**—All elections (including bye elections and nominations) of members of Gaon Panchayats, and of Pradhans of Gaon Sabhas shall be conducted under the supervision and control of the Nirvachan Nideshak (Panchayat), who may also set aside or modify any order or declaration relating to such election passed or made without jurisdiction or in violation of any provision of this Act or the rules made thereunder by any officer or official entrusted with duties relating to the conduct of such election.]

Commentary

Leg-Changes :—This section has been added by Act XV of 1960 Vide Sec. 8

Scope.—The Nirvachan Nideshak (Panchayat) cannot exercise the jurisdiction vested in the authority competent to hear an application under section 12-C for challenging the result of the election, but subject to this restriction he can exercise the power of superintendence and control and can set aside or modify any other order or declaration relating to such election passed or made without jurisdiction or in violation of the provisions of the Act or the Rules.¹

But if the Nirvachan Nideshak (Panchayat) gave no hearing in the manner laid down in the Act, to the petitioner before passing an order modifying the Register of members and setting aside the result of election and directing a poll then, as he had acted in violation of principles of election of natural justice, his order must be quashed, though it shall be open to him to pass a suitable order in the matter after giving an opportunity to the petitioner to put forward his case on the validity of the election or the inclusion of additional names in the Register of members.²

Sec. 12-C. Application for questioning the elections.—(1) The election of a person as Pradhan of a Gaon Sabha or as members of a Gaon Panchayat including the election of [a person appointed] as a Panch of a Nyaya Panchayat under section 43 shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that—

(a) the election has not been a free election by reason

Leg. Changes. In this section the words [a person appointed] have been substituted for the words [a person who may be appointed] by U. P. Act XV of 1960.

1. *Sukhdev Singh v. Nirvachan Nideshak* 1961 R.D. 179.—1962 A.L.J. 256.

2. *ibid.*

- that the corrupt practice of bribery or undue influence has extensively prevailed at the election, or
- (b) that the result of the election has been materially affected—
 - (i) by the improper acceptance or rejection of any nomination ; or
 - (ii) by gross failure to comply with the provisions of this Act or the rules framed thereunder.

(2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act :

(A) (1) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person with the connivance of a candidate of any gratification to any person whomsoever, with the object, directly or indirectly, or including----

- (a) a person to stand or not to stand as or to withdraw from being a candidate at an election : or
- (b) an elector to vote or refrain voting at an election ; or as a reward to—
 - (i) a person for having so stood or not stood, or for having withdrawn his candidature ; or
 - (ii) an elector for having voted or refrained from voting.

(B) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right :

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

- (i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste of community ; or
- (ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.

Explanation.—Any person who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election.

(4) The authority to whom the application under sub-section (1) is made shall, in the matter of—

(i) hearing of the application and the procedure to be followed at such hearing.

(ii) setting aside the election or declaring the election to be void or declaring the applicant to be duly elected or any other relief that may be granted to the petitioner, have such powers and authority as may be prescribed.

(5) Without prejudice to the generality of the powers to be prescribed under sub-section (4) the rules may provide for the summary hearing and disposal of an application under sub-section (1).

(6) The order passed by the prescribed authority upon an application under sub-section (1) shall be final and conclusive, and shall not be questioned in any Civil Court.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55 dated April 25, 1955, published in the U. P. Gazette, Extraordinary dated April 25, 1955.

Applicability.—This section provides a remedy for questioning the election of a person as Pradhan of a Gaon Sabha or as a member of a Gaon-Panchayat including the election of a person who may be appointed as a Panch of a Nyaya Panchayat. The questioning of election of Up-Pradhan is provided in section 12-D read with rule 25. The election of Sarpanch and Sahayak Sarpanch of a Nyaya-Panchayat, can also be questioned under section 12-D read with Rule 83-B. The form, manner and the procedure for hearing election petitions in all cases is the same as provided in Rule 24 and 25.

Verification of petition.—The election petition is not required to be verified as provided in the plaints by the Civil Procedure Code.¹

Grounds.—An election petition can be filed on the ground that the nomination paper was improperly accepted or rejected. The election tribunal has to consider whether this was so or not. If the acceptance or rejection of the nomination paper has materially affected the result of the election, the tribunal is bound to grant the election petition.² The section does not confer jurisdiction upon the prescribed authority for interfering with election petition on a ground not raised in a petition itself. If the tribunal allows the election petition on a new point this case is a fit one for grant of a writ in the nature of certiorari.³ The dismissal of an election

1. *Dr. Hari Singh v. Ramjas*, 1958 A. L. J. 522.

2. *Ram Kishun Singh v. Ram Raj Singh*, 1958 R. D. 82.

3. *Yasin Khan v. S. D. O. Amroha*, 1958 A. L. J. 54; A. I. R. 1958 ALL 511; 1958

petition for failure to comply with the requirements of section 12-C read with rule 24 is fully justified.¹ Deliberate wrong counting of the votes and making a false return would be a valid ground for challenging election.²

The election of a legally unqualified person materially affects the result of an election.³

Transfer of election petition—No power of transfer of an election petition has been conferred upon the Sub-Divisional Officer. On the other hand Rule 25 requires that he must be tried by the "Sub-Divisional Officer."⁴ An election petition cannot be transferred by the Collector under Section 228 Land Revenue Act an Assistant Collector not incharge of the Sub-Division.⁵

The S. D. O. cannot transfer election petition to Additional S. D. O. unless that designation has been made by an authority competent.⁶

Composite petition.—A composite petition challenging an election of several persons is not permitted under the section.⁷

Repolling order.—The District Magistrate cannot order repolling under Rule 19-F after it has been duly declared and if he does so his order can be upset under Art 226.⁸

Nomination.—Whether the acceptance of nomination of a candidate was proper or improper must be judged with reference to the facts existing at the time of the scrutiny and not the facts which are brought to light during the hearing of an election petition. The rules simply provide for scrutiny and not for an enquiry. If there was an erroneous entry in the register it should have been corrected in the manner laid down in rules 4-H ; 4-I and 4-J on failure to have it corrected the entries became final and binding upon the Returning Officer.⁹

Presentation of application.—The application should be presented by the candidate himself and not by his agent.¹⁰

Question of disqualification.—There is nothing in section 12-C and Rules 24 and 25 which makes it obligatory on the Sub-Divisional Officer to refer the question of disqualification to the Tahsildar for decision.

The Sub-Divisional Officer can decide the question of disqualification if it arises in connection with an extra petition.¹¹

Purpose and effect of section—The purpose and effect of the section is to secure the elected candidate in his office for the period provided by law subject only to his election being declared invalid as a result of an election petition.¹²

Election of Sarpanches, Sahayak Sarpanches and Up-Pradhans.—Although the intendment of the Legislature and the rule-makers

1. *Shyam Narain v. S. D. O.* 1958 R. D. 353.

2. *Virendra Singh v. Returning Officer*, 1958 R. D. 84.

3. *Debi Prasad Pandey v. S. D. O.* 1960 R. D. 61.

4. *Dudh Nath Prasad v. Mulchand*, A. I. R. 1958 All. 7.

5. *Kedarnath v. S. N Misra*, 1957 A. L. J. 379. F. B.

6. *Babu Ram v. Paragi*, 1959 R. D. 4.

7. *Shyam Narain Singh v. S. D. O.* 1958 R. D. 353.

8. *Virendra Singh v. Returning officer*, 1957 A. W. R. (H. C.) 182 ; A. I. R. 1957 Alld.

213.

9. *Dudhnath Prasad v. Molchand* A. I. R. 1958 ALL 7.

10. *Prem Lal v. Rajendra Pote*, 1960 R. D. 44.

11. *Kashi Nath v. Dasrath*, 1957 A. L. J. 108.

12. *Dharam Singh v. District Magistrate*, 1958 R. D. 50.

was to make the provisions of the section applicable to disputes over these functionaries also, it was an unconscious omission not to introduce such a provision in the Act or the rules.¹

Party.—Unsuccessful candidates as respondent is not necessary in all petitions unless the petitioner seeks declaration in his or other favour for being declared as duly elected. But a candidate does not include a person who withdrew from the contest before the election was over. Candidate must be the person who continues as a candidate right up to the election.²

In cases where necessary party other than returned candidate is not joined as respondent, the petition is not liable to be dismissed *in limine* on that sole ground. It is a matter to be taken into consideration at the appropriate stage with reference to the final result of the case.³

Amendment of petition.—An election Tribunal can exercise the powers of amendment conferred on a court by order (Rule 16, C. P. C. and can allow an election petition to be amended.⁴

Procedure. The provisions of section are inapplicable to the matters dealt with in Section 12-C.⁵

Transfer of petition.—The S. D. O. has no right to transfer an election petition to another Assistant Collector 1st Class designated as Addl. S. D. O. by some order of the Collector unless the designation of the Addl. S. D. O. has been made by authority competent to date.⁶

Limitation.—In computing the period of limitation, the day on which the result of election is announced must be excluded.⁷

Sarpanch, Sahayak Sarpanch and Panch.—It is inconceivable that the legislature or the Rule-maker did not intend the election of these functionaries to remain unchallenged under this section.⁸

Costs.—The provisions of Rule 25 (2) of the U. P. Panchayat Raj Rules are exhaustive and do not confer on the Election Tribunal the power to order payment of costs.⁹

Form and presentation of application.—See Rule 24.

Hearing of petition.— See Rules 25, 26.

*[Sec. 12-D. *Disputes pertaining to the election of Up-Pradhan, Sarpanch or Sahayak Sarpanch.*—The provisions of

1. Lal Bahadur Singh, v. S. D. O. 1959 R. D. 27.
2. Sheo Kumar v. V. G. Oak, 1953 Allahabad. 683.
3. Bhikhaji v. Brij Lal Nand Lal, 1955 S. C. 810.
4. Amirullah v. L. P. Nigam 1956 A. L. J. (H. C.) 189.
5. Amarnath Singh v. S. D. O. 1959 R. D. 59.
6. Babu Ram v. Paragi, 1959 R. D. 4.
7. T. C. Barrappa v. T. Nagappa, 1954 S.C. 440.
8. Lal Bahadur Singh v. S. D. O. 1959 R. D. 27.
9. Mani Ram v. S. D. O. Baghpai 1961 A. L. J. 368.

*Leg. Changes :—Sec. 12-D has been substituted by Act XV of 1920. The old sec. was as follows :

"12-D. *Disputes pertaining to the election of Up-Pradhan, Sarpanch or Sahayak Sarpanch.*—Any disputes relating to the election of Up-Pradhan of a Gaon Sabha or of a Sarpanch or Sahayak Sarpanch of a Nyaya Panchayat shall be referred in the manner prescribed to the prescribed authority whose decision thereon shall be final and conclusive and shall not be questioned in any Civil Court.,

section 12-C shall *mutatis mutandis* apply to the election of person as Up-Pradhan of a Gaon Sabha or as Sarpanch or Sahayak Sarpanch of a Nyaya Panchayat."

12-E. Oath of office.—(1) Every member of a Gaon Sabha shall, before entering upon any office referred to in section 11-A, [12] 43 or 44, make and subscribe before such authority as may be prescribed on oath or affirmation in the form to be prescribed.

(2) Any member who declines or otherwise refuses to make and subscribe an oath or affirmation as aforesaid shall be deemed to have vacated the office forthwith.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55 published in the U. P. Gazette, Extraordinary, dated April 2, 1955 Fig. [12] has been substituted for fig. [11-B, 12-A] by U. P. Act XV of 1960.

12-F. Resignation.—A Pradhan, Up-Pradhan or a member of a Gaon Panchayat may, by writing under his hand addressed to such authority as may be prescribed, resign his office and his office shall thereupon become vacant.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide notification referred to in the notes under section 12-E.

There is no provision under the Act or the Rules for the withdrawal of the resignation once presented or posted.¹

***Sec. 12-G. Reconstitution of Gaon Panchayat etc.**—Notwithstanding anything contained in this Act, the State Government may—

(1) at any time order re-constitution of Gaon Panchayats in the whole State or in any specified area thereof and thereupon the term of such Gaon Panchayats shall be deemed to have expired and fresh elections, nominations and appointments may take place accordingly ; and

(2) When there is any change in the jurisdiction of a Nyaya Panchayat, order such changes in the constitution of the Nyaya

1. *Shamsuddin v. The State of Rajasthan* 1952, Rajasthan, 53, see also *B. L. Paliwal, vs. D. M. Bulandshahr* 1956, A. L. J. (H. C.) 421.

***Leg. Changes.**—Sec. 12-G has been substituted by U. P. Act XV of 1960 for the old section which was as follows :

***12-G. General Election.**—Notwithstanding anything contained in section 11-B, 11-C, sub-section (3) of section 12 and section 45 the State Government may at any time order a general election of Pradhans of Gaon Sabhas and members of Gaon Panchayats including Panches of Nyaya Panchayats in the whole State or in any specified area thereof.

Panchayat as it considers necessary in view of the change in the jurisdiction.]

Commentary

General election of members.—See Rule 17.

Sec. 12-H. Casual vacancies.—If a vacancy in office of the Pradhan, Up-Pradhan or of a member of a Gaon Panchayat arises by reason of his death, removal, resignation or avoidance of his election it shall be filed for the remainder of his term in the manner as far as may be, provided in section 11-B, 11-C, or 12, as the case may be.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide notification referred to in section 12-G.

Sec. 12-I. Jurisdiction of Civil Courts in election matters barred.—No Civil Court shall have jurisdiction to question the legality of any action taken or any decision given by an officer or authority appointed under this Act, in connection with the conduct of elections thereunder.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide notification referred to in section 12-G.

Sec. 12-J. Powers of Up-Pradhan.—The Up-Pradhan shall exercise such powers of the Pradhan as may be prescribed.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide notification referred to in section 12-B.

Sec. 12-K. Tenure of office of Pradhan and Up-Pradhan.—Notwithstanding anything contained in sub-section (2) of section 11-B or of 11-C the Pradhan and Up-Pradhan shall continue in office until their respective successors are elected.

Commentary

Enforcement.—This section came into force from April 25, 1955—Vide notification referred to in section 12-A.

Sec. 13. Annual Estimate of Income and Expenditure.—The Gaon Sabha shall at each *kharif* meeting consider and pass the annual estimate of income and expenditure for the following year and at its *rabi* meeting it shall consider the accounts of the preceding year. At both meetings the Gaon Sabha shall consider the half-yearly reports of business submitted by the President.

Provided that where for any reason annual estimate of income and expenditure is not passed by a Gaon Sabha in its

kharif meeting, it may be passed by it at any subsequent meeting before such date as may be prescribed under sub-section (4) of section 41.

Commentary

Enforcement.—The words [half yearly] has been substituted for [biennial] and the proviso is added by Act II of 1955, vide Sec. 15. These amendments came into force from April 25, 1955—Vide Notification No. 1957/XXXIII—110—55, dated, April 25, 1955, published in the U. P. Gazette, Extraordinary, dated April 25, 1955.

Sec. 14. Removal of Pradhan and Up-Pradhan.—The Gaon Sabha may at a meeting specially convened for the purpose and of which at least 15 days' previous notice shall be given remove the Pradhan or Up-Pradhan by a majority of two-thirds of the members present and voting. The procedure to be followed at the meeting shall be such as may be prescribed.

Commentary

Enforcement.—The section as amended by section 15 of U. P. Act II of 1955 and came into force from April 15, 1956—Vide Notification No. 1598/XXXIII—110—55, dated April 7, 1956, published in the U. P. Gazette Part III Section 6, dated April 14, 1956.

Scope.—This section provides for the removal of Pradhan and Up-Pradhan by a motion of no confidence. The procedure prescribed by this section and Rules 33-B are mandatory and should be strictly allowed to carry out a motion for no confidence.

There is no specific procedure laid down for the discussion of the motion of the meeting, but the general rules of the Parliamentary Practice may be applied. Every member present has a right to speak but only once and the mover of the resolution is usually granted a right to reply at the conclusion of the debate. Where a member has already spoken once, he has no right to give a second speech in order to reply to other members who had spoken in favour of the motion.

Procedure for removal of Pradhan.—See Rule 33-B.

CHAPTER IV

Powers, Duties, Functions and Administration of Gaon Panchayats

Sec. 15. Duties and functions.—It shall be the duty of every Gaon Panchayat so far as its funds may allow to make reasonable provision within its jurisdiction for—

(a) construction, repair, maintenance, cleaning and lighting of public streets;

1. *Brij Mohan Gupta v. District Magistrate Mirzapur*, 1955 A. L. J. 804 (808).

2. *Maulvi Abdul Majid v. State of U. P.* 1955 A. L. J. (H. C.) 593,

- (b) medical relief;
- (c) sanitation and taking curative and preventive measures to remove and to stop the spread of an epidemic;
- (d) upkeep, protection and supervision of any buildings or other property which may belong to the Gaon Sabha or which may be transferred to it for management;
- (e) registering births, deaths and marriages, and maintenance of the register mentioned in section 9;
- (f) removal of encroachments on public streets, public places and property vested in the Gaon Sabha;
- (g) regulating places for the disposal of dead bodies and carcasses and of other offensive matter;
- (h) regulation of *melas*, markets and *huts* within its area, except those managed by the State Government or the [Zila Parishad] and without prejudice to the provisions of the United Provinces Melas Act, 1938;
- (i) establishing and maintaining primary schools for boys and girls;
- (j) establishment, management and care of common grazing grounds and land for the common benefit of the persons residing within its jurisdiction;
- (k) construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes and regulation of sources of water supply for drinking purposes;
- (l) regulating the construction of a new building or the extension or alteration of any existing building;
- (m) assisting the development of agriculture, commerce and industry;
- (n) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (o) the administration of civil and criminal justice;
- (p) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed;
- (q) maternity and child welfare;
- (r) allotment of places for storing manure and for tanning and curing of hides;

1. Sub. vide Act XXXIII of 1961, Sch.

- (s) fulfilling any other obligation imposed by or under this Act or any other law on a Gaon Sabha;
- (t) the maintenance and control of class (l) and Kaiser-Hind forests, waste land (benap), water-channels and drinking places (panghat) in the hill pattiess of the Kumaon Division.

Commentary

Scope.—The word "Sanitation" as used in section 91 of the District Boards Act and section 15 of the U. P. Panchayat Raj Act is confined to its ordinary meaning in relation to conservancy and drainage and the like with reference to the necessity of avoiding dirt and disease and cannot be given such a wide meaning as to include control or regulation of trades, callings or practices. The Panchayat Raj Act, therefore, does not provide for control and regulation of trades, callings or practices like section 91 (q) of the District Boards Act. The District Board can enforce bye-laws for the regulation and control of trades etc. and levy licence-fee on the mills¹.

Sec. 16. Discretionary functions.—A Gaon Panchayat may also make provision within its jurisdiction for—

- (a) planting and maintaining trees at the sides of public streets and in other places;
- (b) the improved breeding and medical treatment of cattle and prevention of disease in them including the maintenance of pedigree bulls;
- (c) filling in of insanitary depressions and levelling of land;
- (d) organizing, subject to rules prescribed, a village volunteer force for watch and ward, for assisting Gaon Panchayat and Nyaya Panchayat in the discharge of their functions and for the service of summons and notices issued by them;
- (e) assisting and advising agriculturists in the obtaining and distribution among them of Government loans and in the repayment thereof, in the liquidation of old debt and generally in the establishment of sound credit system according to law;
- (f) development of co-operation and establishment of improved seed and implement stores;
- (g) relief against famine or other calamity;
- (h) making representation to the district board for performance by it of such functions in relation to

1. *District Board, Ghazipur v. L. N. Sharma* 1961 R. D. 141.

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- the area within the jurisdiction of the Gaon Sabha as is beyond the power of the Gaon Sabha ;
- (i) extension of the *abadi* and provision for houses sites for weaker section of the public ;
 - (j) establishment and maintenance of library or reading room ;
 - (k) establishment and maintenance of an *akhara* or club, other place for recreation and games ;
 - (l) regulating the collection, removal and disposal of manure and sweepings and making arrangements for the disposal of carcasses of animals ;
 - (m) prohibiting or regulating the curing, tanning, and dyeing of skins within 220 yards of the *abadi* ;
 - (n) setting up organizations to promote good will and social harmony between different communities ;
 - (o) public radio sets and gramophones ;
 - (p) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers ;
 - (q) with the previous sanction of the district board the doing of anything which falls within the functions of the district board for the benefit of the persons living within the jurisdiction of the Gaon Sabha ; and
 - (r) the doing of anything the expenditure on which is declared by the State Government ; or by the prescribed authority with the sanction of the State Government to be an appropriate charge on the fund of the Gaon Sabha ;
 - (s) making arrangements for the seizure and disposal of stray cattle, stray dogs, wild animals and monkeys.

[Sec. 16-A. *Power to make contributions for organisations, etc. outside jurisdiction.*—A Gaon Panchayat may contribute such amounts for such organisations, institutions and functions outside the jurisdiction of the Gaon Sabha as the State Government may by general or special order permit.]¹

Sec. 17. *Power of Gaon Panchayats as to public streets, water ways and other matters.*—A Gaon Panchayat shall have

1. Section 16-A has been newly added by Sch. VIII of U. P. Act No. XXXII of 1961.

control of all public streets, waterways, other than canals as defined in sub-section (1) of section 3 of the Northern India Canal and Drainage Act, 1873, situate within its jurisdiction not being a private street or waterways and not being under the control of the State Government or the [Zila Parishad]¹ or any other authority specified by the State Government and may do all things necessary for the maintenance and repair thereof and may—

- (a) construct new bridges or culverts ;
- (b) divert, discontinue, or close any public street, culvert or bridge ;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields ;
- (d) deepen or otherwise improve waterways ;
- (e) with the sanction of the prescribed authority and where a canal exists under the Northern India Canal and Drainage Act, 1873, with the sanction also of such officer of the Irrigation Department as the State Government may prescribe, undertake small irrigation projects ;
- (f) cut any hedge or branch of any tree projecting on a public street ;
- (g) notify the setting apart of any public watercourse for drinking or culinary purposes, and prohibit, bathing washing of clothes and animals or doing of other acts likely to pollute the course so set apart :

Provided that nothing shall be done under clause (g) which may affect a canal government by the Northern India Canal and Drainage Act, 1873, without the prior permission of the authority prescribed by the State Government in this behalf.

Sec. 18. Improvement of sanitation.—For the improvement of sanitation, a Gaon Panchayat may, by notice, direct the owner or occupier of any land or building, taking into, consideration his financial position and giving him reasonable time for compliance thereof—

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building or to remove or alter any door or trap

1. Subs. by Act XXXIII of 1961.

or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine; urinal or water closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood ;

- (b) to cleanse, repair, cover, fill up, drain off, deepen or to remove water from a private well, tank, reservoir, pool, pit, depression or excavation therein which may appear to the Gaon Panchayat to be injurious to health or offensive to the neighbourhood ;
- (c) to clear off any vegetation, undergrowth, prickly pear or shrub jungle ;
- (d) to remove any dirt, dung, nightsoil, manure or any noxious or offensive matter therefrom and to cleanse the land or building :

Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of the notice appeal to the District Medical Officer of Health against the said notice who may vary, set aside or confirm it.

Sec. 19. Maintenance and improvement of schools and hospitals.—(1) A Gaon Panchayat—

- (a) shall subject to such rules as may be prescribed regarding the curriculum, employment and qualification of teachers and supervision of a school, maintain any existing primary school including the buildings and furniture thereof and be responsible for its proper working and may similarly establish and maintain a new school or improve any existing school ;
- (b) shall subject to such rules as may be prescribed regarding the establishment, maintenance and supervision, maintain any existing Ayurvedic, Homeopathic or Unani hospital or dispensary including the building and equipments thereof and may similarly establish and maintain a new hospital or dispensary for one or more of the systems of medicine mentioned above.

(2) The Zila Parishad and the State Government shall make such grants for such school, hospital or dispensary, as may be prescribed.

Sec. 19-A. Power to require compulsory labour in certain cases.—(1) A Gaon Panchayat may by a resolution passed by a majority of not less than two-thirds of its members for the time being direct in respect of any work of general public utility prescribed by rule and meant exclusively for the benefit of the Gaon Sabha which the Gaon Panchayat proposes to undertake, that such work shall be done or constructed with manual labour of the male members of the Gaon Sabha not above the age of 45 years, each such member being required to render such labour in relation to the work for such number of days as the Gaon Panchayat may determine :

Provided that such compulsory labour shall not—

(a) exceed 96 hours in a year, or

(b) extend to more than 48 days in a year or eight hours on any day.

(2) The Gaon Panchayat may recover as arrears of land revenue from any member of the Gaon Sabha who has not rendered in whole or part the manual labour required of him under sub-section (1) the monetary equivalent thereof on the basis of the rate of wages prevalent in the locality for such labour.¹

Sec. 20. Establishment of primary school, hospital, dispensary, road or bridge for a group of Gaon Sabhas.—“20. Where a group of neighbouring Gaon Sabhas has no primary school or Ayurvedic, Homoeopathic or Unani hospital or dispensary, or it needs a road or bridge for its common benefit, the Gaon Panchayats thereof shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary, or to construct and maintain such a road or bridge, and it shall be managed and financed in the manner prescribed. The State Government and the Zila Parishad shall make such grants for such school, hospital, dispensary, road or bridge as may be prescribed.²

1. Section 19-A has been newly added by Sch. VIII of U. P. Act No. XXXIII of 1961.

2. Section 20 have been substituted by Sch. VIII of U. P. Act No. XXXIII of 1961. The old section 20 was as follows :—

Sec. 20. Establishment of primary school and hospital or dispensary for a group of Gaon Sabhas.—Where a group of neighbouring Gaon Sabhas have no primary school or Ayurvedic, Homeopathic or Unani hospital or dispensary, the Gaon Panchayats thereof shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary, and it shall be managed and financed in the manner prescribed. The State Government and the district board shall make such grants for such school, hospital or dispensary as may be prescribed.

Sec. 21. *Assistance to Government servants.*—A Gaon Panchayat shall, if so prescribed by the State Government and so far as practicable, assist any Government servant in the performance of his duties within its area.

Sec. 22. *Representations and recommendations by Gaon Panchayats.*—A Gaon Panchayat may make to the proper authority—

- (a) any representation concerning the welfare of the persons residing within its jurisdiction, and
- (b) any recommendations as to the appointment, transfer or dismissal of a patrol of the Irrigation Department, patwari or lekhpal, village chawkidars or mukhias serving in any area within the jurisdiction of such Gaon Panchayat.

Sec. 23. *Power to enquire and report about the misconduct of certain officials.*—On receiving a complaint from any person, residing within the jurisdiction of a Gaon Panchayat about any misconduct in the discharge of his official duties by any amin, process server, vaccinator, constable, village chawkidars, patwari, patrol and tube-well operator of the Irrigation Department, forest guard, forest chawkidars, teacher of a primary school, pound keeper, village stockman or peon of any Government Department, such Panchayat may, if there be *prima facie* evidence, forward the complaint to the proper authority with its own report. The authority shall, after such further enquiry as may be required, take suitable action and inform the Gaon Panchayat of the result.

Sec. 24. *Power to contract for collection of taxes and other dues for proprietors.*—A Gaon Panchayat may, as prescribed and in respect of any area within its jurisdiction enter into a contract—

- [(a) with the State Government or any local authority to collect any taxes or dues payable to the State or to such local authority upon payment of such collection charges as may be prescribed ; or, and]
- (b) with the State Government or any local authority for carrying out any work on such terms as may be agreed upon.

Sec. 25. *Staff.*—(1) A Gaon Panchayat may appoint such staff (other staff than the Secretary) as may from time to time be necessary :

1. Substituted by the Notification no. 3536 A/XVII—292-58 dated Dec. 28, 1958.

Provided that it shall not create any post not already provided for in the budget except with the previous approval of the prescribed authority :

Provided further that it may in an emergency create any such post and make appointment thereto without such approval, but its intimation shall be sent forthwith to the prescribed authority and the post including the appointment thereto shall terminate if the prescribed authority does not approve creation of the post.

(2) The power to appoint, punish, discharge, dismiss or control a servant of the Gaon Sabha other than a Secretary shall be vested in the Gaon Panchayat, but the Gaon Panchayat may delegate to such officer, subject to such conditions and restrictions as may be prescribed, the power to impose any punishment other than discharge or dismissal.

(3) An appeal from an order punishing, discharging or dismissing a servant shall lie—

(a) to the prescribed authority where such an order is passed by the Gaon Panchayat, and

(b) to the Gaon Panchayat, where such an order is passed by an officer to whom such powers have been delegated under sub-section (2).

(4) The prescribed authority may, subject to the conditions as may be prescribed, transfer any person from the staff of one Gaon Panchayat to the staff of any other Gaon Panchayat or group of Gaon Panchayats within the same district and the State Government may similarly transfer any such person from one district to another.

(5) A Nyaya Panchayat may with the previous sanction of the prescribed authority appoint persons on its staff in the manner prescribed. Persons so appointed shall be under the administrative control of the prescribed authority, who shall have power to transfer, punish, discharge or dismiss them.

(6) Appeal shall lie from an order of the prescribed authority punishing, discharging or dismissing a person under sub-section (5) to an authority appointed in this behalf by the State Government.

Commentary

Enforcement.—This section came into force from April 15, 1956—
Vide Notification No. 1598/XXXIII—110—55, dated 7th April, 1956 and published in the U. P. Gazette, Part III, Section 6, Page 173, dated 14th April, 1956.

Termination of Service.—The protection regarding services of Gaon Sabha and Nyaya Panchayats are to be found in the rules and regulations governing the condition of service. A Gaon Sabha servant cannot rely on the fundamental rules regarding recruitment of service in the departments of the State.¹ Article 311 of the Constitution will not be applicable in the case of Gaon Sabha employees. The question of dismissal stands on a different footing with the termination of services, it is not necessary as no mis-conduct is alleged against the person concerned.² Contract of service without assigning reason—termination after assigning reason—termination does not become dismissal or removal.³

"Show cause."—Whenever a person is called upon to show cause, it is implied that he has the right to advance evidence or disprove the charge on the basis of which he is called upon to show cause is proposed to be taken against him.⁴

Limitation for filing appeal.—See Rule 173.

Sec. 25-A. Appointment, leave, and dismissal, etc. of Secretary.—(1) Subject to such directions, including directions regarding payment from the Gaon Fund of his salary, allowances and other dues as the State Government may give, there shall be appointed by such authority as may be prescribed a Secretary for every Gaon Panchayat or a group of Gaon Panchayats. The Secretary so appointed shall also be *ex-officio* Secretary of the Gaon Sabha or Sabhas concerned.

(2) The Secretary shall, in the matter of leave, promotion, transfer, dismissal, removal and other disciplinary action be under the administrative control of the prescribed authority aforesaid which shall exercise its powers and functions in the manner prescribed :

Provided that an order of the prescribed authority removing or dismissing a Secretary shall be appealable within a period and in the manner, to be prescribed, to the District Magistrate, or if any other authority is prescribed in this behalf to such other authority.

Sec. 26. Right of individual members.—A member of a Gaon Panchayat may, at any meeting, move any resolution and put question to the Pradhan or Up-Pradhan on matters connected with the administration of the Gaon Panchayat in the manner prescribed.

Sec. 27. Penalty for causing loss, waste or misapplication of money or property of the Gaon Panchayat.—(1) Every member

1. *Badri Prasad Dubey v. The State of U. P.* 1956 A. L. J. (H. C.) 592.

2. *S. L. Gupta v. The State*, 1956 A. L. J. 483.

3. *S. P. Srivastava v. The State*, 1956 A. L. J. 665.

4. *Rama Shankar Srivastava v. Divisional Superintendent, N. R. Allahabad* 16 A. L. J.

of the Gaon Panchayat, any joint committee or any other committee constituted under this Act shall be liable for the loss, waste or mis-application of any money or property belonging to the Gaon Panchayat, if such loss, waste or mis-application is a direct consequence of his neglect or mis-conduct while a member of the Gaon Panchayat, joint committee or other committee, and a civil case for compensation may be instituted against him by the Gaon Panchayat with the previous sanction of the prescribed authority.

(2) If the prescribed authority sanctions the institution of a civil case under section (1) or refuses to grant the sanction, the member concerned, or the Gaon Panchayat as the case may be, may within 30 days of such sanction or refusal, appeal to the State Government or an appellate prescribed authority against the said sanction or refusal.

(3) The State Government may institute a civil case mentioned in sub-section (1) on its own initiative.

Sec. 28. Member and servants to be public servants.—Every member or servant of, a Nyaya Panchayat, a Gaon Panchayat, a joint committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Sec. "28-A. Bhumi Prabandhak Samiti.—(1) The Gaon Panchayat of every Gaon Sabha shall establish a committee to be known as the Bhumi Prabandhak Samiti (Land Management Committee) to assist it in the discharge of its duties of up-keep, protection and supervision of all property vested in the Gaon Sabha under section 117 of the U. P. Zamindari Abolition and Land Reforms Act, 1950 and all other property vesting in it or coming into its possession under any other provision of that Act :

Provided that where the State Government so directs, the Gaon Panchayat shall constitute a Bhumi Prabandhak Samiti for each such portion of the area of the Gaon Sabha as may be specified by the state Government.

(2) The number of members of a Gaon Panchayat who shall constitute the Bhumi Prabandhak Samiti and the manner of their election shall be as may be prescribed :

Provided that the Pradhan and the Up-Pradhan shall respectively be the Chairman and the Vice-Chairman of the Bhumi Prabandhak Samiti :

Provided further that where the whole or part of the *abadi* of any village included in the area of the Gaon Sabha lies within the limits of another local authority, the Collector may, in the manner prescribed, nominate from amongst the residents of such *abadi* such number of members not exceeding five for the purpose of due representation of such village on the said Samiti and these members shall be members in addition to the number otherwise fixed for the Samiti.

(3) The Lekhpal of the area of the Gaon Sabha shall be the secretary of the Bhumi Prabandhak Samitis.

(4) Until the Bhumi Prabandhak Samiti for a Gaon Sabha has been constituted under this section, the corresponding committee constituted under the U. P. Zamindari Abolition and Land Reforms Act, 1950 and functioning for the area of the Gaon Sabha immediately before the commencement of the Uttar Pradesh Kshettra Samiti and Zila Parishads Adhiniyam, 1961, shall continue to exercise the powers and perform the duties conferred by this Act upon the Bhumi Prabandhak Samiti and shall be deemed to be Bhumi Prabandhk Samiti established under this Act.

Sec. 28-B. Functions of the Bhumi Prabandhak Samiti.—The Bhumi Prabandhak Samiti shall for and on behalf of the Gaon Panchayat establishing it be charged with the general management, preservation and control of all property referred to in section 28-A, including—

- (a) the settling and management of land ;
- (b) the preservation, maintenance and development of forests and trees ;
- (c) the maintenance and development of *abadi* sites and village communications ;
- (d) the management of *hats*, bazars and *melas* ;
- (e) the maintenance and development of fisheries and tanks ;
- (f) the rendering of assistance in the consolidation of holdings ;
- (g) the conduct and prosecution of suits and proceedings by or against the Gaon Sabha relating to or arising out of the functions of the samiti ;
- (h) performance of functions, specifically assigned to the Bhumi Prabandhak Samiti under the U. P. Zamindari Abolition and Land Reforms Act, 1950 or any other enactment ; and

(i) any other matter relating to such management, preservation and control as may be prescribed ; and may exercise all powers of the Gaon Panchayat necessary for or incidental to the discharge of such duties.

(2) The Bhumi Prabandhak Samiti shall function subject to the provisions of the U. P. Zamindari Abolition and Land Reforms Act, 1950.

'Sec. 28-C. Members and officers not to acquire interest in contracts, etc. with Bhumi Purbandhak Samiti.—(1) No member or office-bearer of Gaon Panchayat or Bhumi Prabandhak Samiti shall, otherwise than with the permission in writing of the Collector, knowingly acquire or attempt to acquire or stipulate for or agree to receive or continue to have himself or through a partner or otherwise any share or interest in any licence, lease, sale, exchange, contract or employment with, by, or on behalf of the Samiti concerned :

Provided that a person shall not be deemed to acquire or attempt to acquire or continue to stipulate for or agree to receive any share or interest in any contract or employment by reason only of his—

- (a) having acquired any interest before he became a member or office-bearer.
- (b) having a share in a joint stock company which makes the contract ; and
- (c) having a share or interest in the occasional sale through the Samiti concerned of an article in which he regularly trades up to a value not exceeding Rs. 50 in any one year.

(2) No court or other authority shall enforce at the instance of any person a claim based upon a transaction in contravention of the provisions of sub-section (1).

Sec. 29. Committee.—Subject to the prescribed conditions, a Gaon Panchayat may establish a committee to assist it in the discharge of any [other]² specified duty or class of duties and may delegate to such committee such of its powers as may be necessary for the purpose of rendering such assistance.

Sec. 30. Joint Committee.—(1) Subject to such rules as may be prescribed, two or more Gaon Sabhas may combine by means of a written instrument to appoint a joint committee

1. Sections 28-A, 28-B, 28-C have been newly added by Sch. VIII of U. P. Act of XXXIII of 1961.

2. Added by U. P. Act No. XXXIII of 1961.

consisting of their representatives, for the purpose of transacting any business in which they are jointly interested and may—

- (a) delegate to such committee power, with such conditions as they may think proper to impose, to frame any scheme binding on each such Gaon Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme ; and
- (b) frame or modify rules regarding the continuation of such committee and the term of office members thereof and the method of conducting proceedings and correspondence.

(2) If any difference of opinion arises, between the Gaon Sabhas acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

Sec. 31. Delegation.—All the duties, powers and functions of the Gaon Sabha except those specified in Chapter III and sections 30 and 41 shall be exercised, performed or discharged by the Gaon Panchayat and not otherwise.

CHAPTER V

Acquisition of land, Gaon Fund and Property

Sec. 32. Gaon Fund.—(1) There shall be a Gaon Fund for each Gaon Sabha and the same shall, subject to the provisions of the annual estimate of income and expenditure passed under section 41, be utilised for carrying out the duties or obligations imposed upon the Gaon Sabha or Gaon Panchayat or any committee thereof by this or any other enactment.

“Provided that such amount up to the total of all sums credited to the Gaon Fund and under the Uttar Pradesh Zamin-dari Abolition and Land Reforms Act, 1950, minus the amount credited to the Consolidated Gaon Fund under section 125-A of that Act as may be required by the Bhumi Prabandhak Samiti for being utilized in carrying out its duties or obligations shall be made available out of the Gaon Fund to the Bhumi-Prabandhak Samiti every year :

Provided further that in the event of any difference between the Bhumi Prabandhak Samiti on the one hand and the Gaon Panchayat or Gaon Sabha on the other about the requirements

of funds by the Bhumi Prabandhak Samiti the matter shall be referred by the Pradhan to the prescribed authority whose decision shall be binding."

(2) The following shall be credited to the Gaon Fund :

- (a) The proceeds of any tax imposed under this Act.
- (b) All sums handed over by the State Government to the Gaon Sabha.
- (c) The balance, if any, standing to the credit of the village panchayat previously in existence under the "Village Panchayat Act."
- (d) All sums ordered by a court [or required under any law]¹ to be placed to the credit of the Gaon Fund.
- (e) All sums received under section 104.
- (f) The sale-proceeds of all dust, dirt, dung or refuse including the dead bodies of animals, collected by the servants of the Gaon Panchayat.
- (g) Such portion of the rent or other proceeds of nazul property as the State Government may direct to be placed to the credit of the Gaon Fund.
- (h) Sums contributed to the Gaon Fund by any [Zila Parishad]² or other local authority.
- (i) All sums received by way of loan or gift.
- (j) Such other sums as may be assigned to the Gaon Fund by any special or general order of the State Government.
- (k) All sums received by the Gaon Panchayat from any individual or corporation or the State Government under section 24 or any other law.

(3) Nothing in this section shall affect any obligation of a Gaon Sabha arising from a trust legally imposed upon or accepted by it ;

Sec. 33. Power to acquire land.—Where a Gaon Sabha or a number of Gaon Sabhas which have combined under the provisions of section 20 or 30 require any land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gaon Sabha or Gaon Sabhas may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land for such Gaon Sabha or Gaon Sabhas.

1. The words in brackets in clause (d) have been added by Act XXXIII of 1961, vide Sch. VIII.

2. Subs. (*ibid*).

Explanation.—In this chapter the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

Sec. 34. *Property vested in the Gaon Sabha.*—(1) Subject to any special reservation made by the State Government, all public property situated within the jurisdiction of a Gaon Sabha shall vest in and belong to the Gaon Sabha and shall, with all other property which may become vested in the Gaon Sabha, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gaon Panchayat and the Gaon Sabha shall receive to the credit of the Gaon Fund all dues levied or imposed in respect thereof.

Sec. 35. *Disposal of claims.*—Where any dispute arises as regards the ownership of any property mentioned in section 34 between a Gaon Sabha and any person, the Gaon Panchayat shall give such persons a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gaon Sabha.

Sec. 36. *Power to borrow.*—With the sanction of the prescribed authority and subject to such conditions as may be prescribed a Gaon Sabha may borrow money from the State Government or any other Gaon Sabha to carry out any of the purposes of this Act.

Sec. 37. *Imposition of taxes and fees.*—(1) Subject to the rules made or directions given or restrictions imposed by the State Government, a Gaon Sabha may levy—

(a) in areas where the rights, title and interest of intermediaries have been acquired under section 4 of the Zamindari Abolition and Land Reforms Act 1950, a tax on land not exceeding one anna in a rupee on the amount of land revenue payable therefor:

Provided that where the land is in the actual cultivation of a person other than the person liable to pay land revenue therefor, the tax shall be payable by the person in actual cultivation :

(b) in areas other than those referred to clause (a) a tax on rent not exceeding one anna in a rupee on the amount of rent payable by a tenant by whatever

name called, under the law in force relating to land tenures;

Provided that where the land is in the actual cultivation of the person liable to pay land revenue therefor, the tax shall not exceed one anna in a rupee on the amount of land revenue for such land;

- (c) [a tax on theatre, cinema or similar entertainment temporarily stationed in the area of the Gaon Sabha exceeding not five rupees per diem].”
 - (d) a tax payable by the owner thereof on animals and vehicles other than mechanically propelled vehicles kept within the area of the Gaon Sabha and plied for hire, at the rate—
 - (i) in the case of animals, not exceeding three rupees per animal per annum :
 - (ii) in the case of vehicles, not exceeding six rupees per vehicle per annum ;
 - (e) A tax on persons, not being persons assessed to tax under clause (c), exposing goods for sale in markets, hats or melas belonging to or under the control of the Gaon Sabha concerned ;
 - (f) [* * *]
 - (g) fees for the use of slaughter houses and encamping grounds ;
 - (h) a water rate where water is supplied by the Gaon Sabha ;
 - (i) a tax for cleaning private latrines and drains payable by the owners or occupiers of the houses to which the private latrine or drain is attached, where such cleaning is done through the agency of the Gaon Sabha : and

Clause (c) has been substituted by Sch. VIII of U. P. Act. XXXIII of 1961. The old clause (c) was as follows :—

(c) a tax subject to a maximum of six rupees per annum on persons carrying on any trade, calling or profession within the jurisdiction of the Gaon Sabha;

Provided that in the case of theatre, cinema or similar entertainment temporarily stationed in the area of the Gaon Shabha: a tax not exceeding five rupees per diem may be levied;

Clause (f) is deleted ibid.

(j) a tax, not exceeding such rate as may be prescribed on buildings owned by persons who do not pay any of the aforesaid taxes and whose annual income exceeds three hundred rupees.

(2) The taxes, rates and fees under sub-section (1) shall be imposed, assessed and realised in such manner and at such times as may be prescribed.

Commentary

Scope.—There is no provision in the Act for imposing a tax on a trade of motor vehicles or in the nature of income tax at the rate of 1 anna per rupee. Even if Rule 20 or 21 had permitted imposition of such tax it would be *ultra vires*.¹

Clause (d). Plying on hire.—The term means the act of waiting for soliciting passengers. Mere carrying passengers to destination at some place within of the Municipal limits and therefore covering in the course of journey some part of the Municipal limits will not be plying for hire within Municipal limits.²

Plying of rickshaws.—Section 37 (d) (ii) read with rules 220 and 223 gives authority to the Gram Sabha to issue licences for plying rickshaws on hire within its limits.³

Imposition or enhancement of new tax, rate or fee.—See Rule 220 and 221.

Sec. 37-A. Appeal against levy of tax, rate or fee.—(1) An appeal against the levy of a tax, rate or fees by the Gaon Sabha shall lie to the prescribed authority.

(2) Where it is brought to the notice of the prescribed authority that a tax, rate or fee has not been imposed on any person on whom it should have imposed it may direct the Gaon Sabha to impose it on that person and the Gaon Sabha shall thereupon act accordingly.

Sec. 37-B. Taxes and dues recoverable as arrears of land revenue.—All dues on account of the taxes imposed and other sums payable to a Gaon Sabha under this Act shall be recovered as arrears of land revenue if the Gaon Panchayat concerned passes a resolution to that effect within three months from the date of assessment :

Provided that where a Gaon Panchayat fails to pass such a resolution within the said period of three months the prescribed authority shall authorise the recovery of the arrears of taxes as arrears of land revenue.

1. *Maheshwari Pd. v. State*, 1956 A. L. J. 90 A. I. R. 1957. ALL. 282, 1956 A. W. R. (H. C.) 861.

2. *Sardar Iqbal Singh v. M. B. Lucknow* 1958 R. D. 241.

3. *Sardar Iqbal Singh, Supra*.

Sec. 37-C. Remission of tax, rate or fee.—(1) The State Government may remit the whole or part of any tax, rate or fee levied by a Gaon Sabha in respect of a period whether before or after the commencement of the U. P. Panchayat Raj (Amendment) Act, 1954.

(2) The power exercisable by the State Government under sub-section (1) shall also be exercisable either generally or in any specified area by the prescribed authority under such circumstances as the State Government may prescribe.

(3) A Gaon Sabha also may by resolution and under such circumstances as may be prescribed, remit the whole or part of any such tax, rate or fee imposed or levied by it, provided that no such resolution shall take effect unless it is approved by the prescribed authority.

(4) Where any tax, rate or fee has been remitted under sub-sections (1) to (3), any sum realized from the assessee on account of tax, rate or fee so remitted shall be refunded to him by the Gaon Sabha.

Sec. 38. Realization of dues, custody of funds and accounts.—The Gaon Panchayat shall, as prescribed, arrange for the realization of panchayat taxes and dues, custody of its funds and maintenance of accounts.

Sec. 39. Expenses of Nyaya Panchayat to be a charge on Gaon Fund.—(1) The expenses of Nyaya Panchayat shall be charged to the Gaon Fund or Gaon Funds of the Gaon Sabhas comprised in the circle in such proportion as may be determined by the prescribed authority.

(2) All sums realized by way of court fees or fines in a case triable under this Act shall be credited to the State Government, but the State Government shall out of the sums so realised pay by way of grant such portion not exceeding fifty per centum as it may fix to the Gaon Sabha concerned for defraying the expenses of the Nyaya Panchayat.

Commentary

Credit and disbursement of fees.—See Rule 111.

Sec. 40. Audit.—The accounts of every Gaon Sabha and Nyaya Panchayat shall be audited at such intervals and in such manner as may be prescribed.

Sec. 41. *Annual estimate of income and expenditure.*—(1) (a) Every Gaon Panchayat shall prepare and lay before the *kharif* meeting of the Gaon Sabha an estimate of its, income and expenditure for the year commencing on the first day of April next following.

(b) Every Gaon Panchayat shall prepare and lay before the *rabi* meeting of the Geon Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on the 31st March last preceding such meeting.

(2) The Gaon Sabha may pass or refer back to the Gaon Panchayat the annual estimate submitted to it for reconsideration with such direction as it may give in the manner prescribed and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) If the annual estimate is referred to the Gaon Panchayat for reconsideration as aforesaid, the Pradhan shall call an extraordinary meeting of the Gaon Sabha to be held within a fortnight of the said annual meeting and the Gaon Panchayat shall resubmit the annual estimate at the said meeting with such modifications as may be necessary in the light of the directions of the Gaon Sabha, and the Gaon Sabha shall then pass the annual estimate in the manner prescribed. Subject to rules in this behalf the annual estimate shall take effect after it has been approved by the prescribed authority and a Gaon Panchayat may with the approval of the prescribed authority incur any expenditure on a matter already approved in the annual estimate provided that the total of the annual estimate is not exceeded.

(4) If before such date as may be prescribed a Gaon Panchayat does not lay the annual estimate of income and expenditure before the Gaon Sabha or the Gaon Sabha does not pass the same, the prescribed authority may call upon the Gaon Panchayat to furnish such information as it may require and may prepare an annual estimate of income and expenditure for the Gaon Sabha. The annual estimate so prepared shall then be sent to the Gaon Sabha which shall accept and pass the same in the manner prescribed. Where the Gaon Sabha fails to do so within such time as may in this behalf be prescribed the said annual estimate of income and expenditure shall have effect as if it had been prepared by the Gaon Panchayat and passed by the Gaon Sabha concerned :

Provided that the Gaon Sabha may at any time after the annual estimate takes effect, make in the manner prescribed

such modifications or changes therein as it may consider necessary.

(5) The prescribed authority may at any time whether before or after the annual estimate takes effect under sub-section (3) make such amendments, modifications or changes therein as may appear to it necessary.

Commentary

Annual estimate.—See Rule 219.

CHAPTER—VI

The Nyaya Panchayat

[Sec. 42. Establishment of Nyaya Panchayat.]—The State Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of the Gaon Sabhas as may be expedient, and establish a Nyaya Panchayat for each such circle :

Provided that the areas of Gaon Sabhas within each circle shall, as far as possible, be contiguous.

(2) Subject to a minimum of ten and a maximum of twenty-five, every Nyaya Panchayat shall have such number of members, as may be prescribed, but it shall be lawful for a Nyaya Panchayat to function notwithstanding any vacancy therein ; provided the number of Panches therein is not less than two-thirds of the prescribed strength].

[Sec. 43. Appointment of Panches and their term.]—(1) There shall be appointed by the prescribed authority out of the members of a Gaon Panchayat such number of persons, as may be prescribed, to be Panches of the Nyaya Panchayat and thereupon the persons so appointed shall cease to be members of the Gaon Panchayat and their seats in the Gaon Panchayat shall be filled, as far as may be, in the manner provided in section 12.

1. Leg-Changes.—Sections 42 and 43 have been substituted by U. P. Act XV of 1960 for the original sections which were as follows.

***42. Circle for Nyaya Panchayat.]**—The State Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of Gaon Sabhas as may be expedient, and establish Nyaya Panchayats for each such circle :

Provided that the areas of Gaon Sabhas within each circle shall, as far as possible, be contiguous.

43. Constitution of Nyaya Panchayat—There shall be appointed by the prescribed authority five persons or such lesser number of persons as may be fixed under section 12-A of prescribed qualifications out of the persons elected in accordance with sub-section (6) of section 12 and section 12-A to be panches of the Nyaya Panchayat and the persons so appointed shall, notwithstanding anything hereinbefore contained, not be members of Gaon Panchayat :

(2) No person may be appointed as a Panch of the Nyaya Panchayat unless he has the qualifications that may be prescribed :

Provided that where suitable persons having the prescribed qualifications are not available for such appointment any or all of such qualifications may, by an order in writing, be relaxed by the prescribed authority.]

Commentary

Prescribed authority.—Under this section the appointing authority for the appointment of Nyaya Panches is the District Magistrate. He is not prohibited from taking into consideration the view of any committee or of any other authority.¹

Election of Sarpanch.—See Rule 83-A.

Sec. 44. Election of Sarpanch and Sahayak Sarpanch.—The panches appointed under section 43 shall, in the manner and within the period to be prescribed, elect from amongst them two persons who are able to record proceedings, one as the Sarpanch and the other as the Sahayak Sarpanch :

Provided that if the panches fail to elect the Sarpanch or the Sahayak Sarpanch as aforesaid the prescribed authority may appoint the Sarpanch or the Sahayak Sarpanch.

Commentary

Scope.—The only qualification for a person being elected a Sarpanch is that he is already a Panch. The election of a person of an age less than 30 years cannot be set aside on that ground.²

[Sec. 45 Term of a Panch.—The term of every Panch of a Nyaya Panchayat shall commence on the date of his appointment as such and, unless otherwise determined under the provisions of this Act, shall expire with the term of the Gaon Panchayat, from which he was appointed :

Provided that where suitable persons possessing the prescribed qualifications are not available for such appointment any or all of such qualifications may be relaxed by the prescribed authority.

1. *Baleshwar Singh v. District Magistrate Benares*, A. I. R. 1959 ALL. 71.

2. *Ram Rakhan v. Vishwanath* 1959 R. D. 293.

***Leg-Changes:**—Section 45 has been substituted by Act XV of 1960 for the old section, which was as follows.

“45. *Term of Nyaya Panchayat.*—(1) The term of office of every panch shall be five years from the date of his election :

Provided that the State Government may, by notification in the Official Gazette, extend the term for a total period not exceeding one year ;

(Contd. to page 52).

Provided that the Sarpanch and the Sahayak Sarpanch shall continue in office until their respective successors are elected or appointed.]

Sec. 46. * * * *

Sec. 47. *Resignation of Panches.*—A panch, a sarpanch or Sahayak Sarpanch may resign his office as such by writing under his hand addressed to such authority as may be prescribed and his office shall thereupon become vacant.

Sec. 48. * * * *

Sec. 49. *Bench of Nyaya Panchayat.*—(1) The sarpanch shall form Benches consisting of five Panches each for the disposal of cases and inquiries coming up before the Nyaya Panchayat.

(2) The formation of Benches, the period for which they will work including the hearing of part heard cases, the method of distribution, transfer or re-transfer of work among the Benches and procedure generally to be followed by them in cases and enquires shall be governed by rules.

(3) No panch, Sarpanch or Sahayak Sarpanch shall take part in the trial of or inquiry in any case to which he or any near relation, employer, employee, debtor, creditor or partner of his is a party or in which any of them is personally interested.

(4) Notwithstanding anything contained in this section, the State Government may prescribe the constitution of Special Benches for the trial of any class or classes of cases :

Provided that the State Government may at any time order for the reconstitution of such a Special Bench.

(5) Any dispute relating to the formation of Benches or method of their working, shall be referred to the prescribed authority whose decision shall be final.

Commentary

Enforcement.—This section as substituted by Act II of 1955 came into force from July 31, 1956—Vide Notification No. 2814/XXXIII—110—55, dated July 13, 1956, published in the U. P. Gazette, dated July 14, 1956.

Scope.—The powers conferred upon a Panchayati Adalat are so wide that nothing it does is illegal if it does not contravene any specific provisions of the Act.¹

(Contd. from page 51)

Provided further that the Sarpanch and the Sahayak Sarpanch shall continue in office until their respective successors are elected or appointed.

(2) The notification under sub-section (1) may be published at any time before the expiry of five years aforesaid or where the period has been extended, before the expiry of such extended period.

1. *Bhagwati v. State*, 1955 A. L. J. 6 F. B. (Per Desai, J.).

Procedure and Evidence.—The *Panchayati Adalat* is not bound by technical rules of procedure or evidence and hence the High Court will be reluctant to interfere on technical grounds.¹

It is necessary that one of the Panches constituting the Bench should be able to record evidence and if the Panchayati Adalat called an outsider to record the evidence there is a breach of the provision of sections 27-A and 49 and the proceedings are illegal.²

Non-compliance with provisions.—Section 49 has been amended by Act II of 1955 and the provisions of sub-section (2) of the section which related to the residence of Panches in a particular area of the Gaon Sabha have been deleted. When the provisions of Sub-section (2) were in force as it stood prior to its amendment by Act II of 1955 it was held that the defect in the constitution of a Bench of Panchayati Adalat due to the non-compliance of the provisions of sub-section (2) is not jurisdictional in nature. It will be waived if no objection against it is raised.³

Judgment.—Judgment is not a part of the trial. Therefore where the trial is held in the presence of three Panches including the Chairman and one of them is able to record evidence, but the judgment is pronounced by two of them, only though signed by three, the judgment and the trial is not illegal.⁴

Distinction between Sec. 49 and 77-A.—The two provisions when considered together mean that a Bench must consist of five Panches, and it is not essential for all of them to be present on every date of hearing and that at least if three Panches, including the Chairman, are present, they can try the case.⁵

The changes made by Act II of 1955 in this section (Section 49) read with section 77-A have rendered the following ruling as absolute.⁶ Where an order passed by three Panches only was held to be without jurisdiction.⁷ Where the order of the Bench was quashed on the ground that the Bench did not include a Panch residing in the area of Gaon Sabha in which the accused was resided. Then again⁸, requiring the inclusion in the Bench of two Panches residing in the area of Gaon Sabha in which both the parties resided or requiring only one Panch of that area ; these have also become absolute.

Objection as to constitution of Bench.—The objection that the Bench was not properly constituted must be taken either before the Panchayati Adalat or the Sub-Divisional Magistrate otherwise it cannot be raised for the first time before the High Court under Article 226 of the Constitution.⁹

1. *Lachmi v. Somarao*, A. I. R. 1955 All. 122 F. B.

2. *Purshotam v. State*, 1955 A. L. J. 195.

3. *Mohanlal v. Sarpanch Panchayati Adalat*, A. I. R. 1954 ALL 159 ; 1958 A. L. J. 586 ; *Mohan Singh v. State*, A. I. R. 1954 ALL 81 ; 1953 A. L. J. 285.

4. *Sita Ram v. Tej Ram*, 1957 A. L. J. 444 ; 1957 A. W. R. (H. C.) 463.

5. *Bhagirathi v. The State*, 1955 ALL. (F. B.) 1131 ; 1955 A. L. J. (H. C.)

6. *Judaram v. Panchayati, Adalat* 1952 Alld. 510.

7. *Ram Pd. v. State* 1952 Alld. 843 and *Musai Bhant v. Ganga Charan* 1953 Alld. 118.

8. *Mohan Singh v. State* 1953 A. I. J. (H. C.) 265 ; 1954 Alld. 81.

9. *Hari Har Tiwari v. State* A. I. R. 1952 ALL. 489 ; 1952 ALL. 489 ; 1952 A. L. J. 106.

Lachmi v. Samarao, A. I. R. 1955 ALL 22 (F. B.) see also *Mohan Singh v. State*, 1953 D. R. 119.

Where admittedly the Bench of the Panchayati Adalat was constituted in contravention of Section 49 of the U. P. Panchayat Raj Act, 1947, it was held that the constitution of the Bench was illegal and that the illegality committed could not be, and was not waived and that the order of the Panchayati Adalat could be quashed under Art 227.¹

Sub-section (3). Personally interested.—This phrase includes any interest direct or indirect which a Panch of the Bench may have in the case. A Panch shall be deemed to be personally interested where he examines himself as a witness.²

Replacing of Panches.—The Act does not provide for the removal of a Panch by the Sarpanch. Under old section where the Panches capable of acting were found to be less than three, the Sarpanch could constitute a new Bench. But in cases where three Panches were still available who could function, the Sarpanch had no right to interfere and appoint new Panches to replace the old one or to put in a new Bench to replace the old one.³ Under the amended section there is no question of forming a new Bench. In cases where less than three Panches are left, the Sarpanch can only allocate the case to the next Bench in the serial order. Non-participation by a Panch in proceedings or the death of a Panch where four Panches are still available to try the case, will not cause automatic dissolution of the Bench or alternatively that Bench cannot proceed to hear the case until a new appointment is made.⁴

Sub-section (4). Special Bench.—The Supreme Court has laid down that this sub-section so far as it authorises the Government to frame rules for the constitution of special Benches "for determining disputes between parties of different circles or Gaon Sabhas for any other purpose" does not authorise the framing of a rule so far as it relates to a person belonging to a place outside the State. Hence Rule 84 so far as it related to the constitution of a special Bench where one of the parties belonged to a place outside the State was held to be *ultra vires*.⁵ Even the phrase "for any other purpose" in the sub-section cannot be construed so widely as to authorise a rule affecting a person who belongs to a place outside the State and that a statutory provision by a State Legislature cannot directly or by delegation and in terms, validly provide for the exercise of such jurisdiction by a Panchayati Adalat.

Constitution of Bench.—See Rule 84.

Sec. 50. Filling of casual vacancies.—(1) If a vacancy in the office of a Panch arises by reason of his death, removal or resignation it shall, subject to the provisions of section 45, be filled for the unexpired part of his term by the prescribed authority by appointing a person from amongst the members for the time being of the Gaon Panchayat, and if the Panch vacating the office was also the Sarpanch or Sahayak Sarpanch

1. *Mata Bhik v. Baij Nath A. I. R. 1955 ALL 244 (F. B.)*

2. *Moti Lal v. State* 1952 Alld. 962.

3. *Laxmi v. Samaru* 1955 Alld. 122 (F. P.); 1955, A. L. J. (H. C.).

4. *Ram Nath v. Panchayati Adalat* 1955 Alld. 70; *Ram Gharib v. Panchayati Adalat*, 1955 N. U. C. 169 Alld.

5. *Bhim Sen v. State of U. P.* 1955 A. L. J. 1010 (S. C.); 435.

a new Sarpanch or Sahayak Sarpanch, as the case may be, shall be elected in the manner provided in section 44.

(2) Any person appointed as Panch under sub-section (1) shall cease to be a member of the Gaon Panchayat from the date of his appointment and the vacancy so caused in the Gaon Panchayat shall be deemed to be a casual vacancy for the purpose of section 12-H.

Sec. 50-A. Powers of Sahayak Sarpanch.—The Sahayak Sarpanch shall exercise such powers of the Sarpanch as may be prescribed.

Sec. 51. Territorial jurisdiction.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every criminal case triable by a Nyaya Panchayat shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the offence is committed ; and

(2) Notwithstanding anything contained in the Civil Procedure Code 1908, every civil case instituted under this Act shall be instituted before the Sarpanch of the Nyaya Panchayat of the circle in which the defendant or any of the defendants, where they are more than one, ordinarily reside or carries on business at the time of the institution of the civil case irrespective of the place where the cause of action arose.

Sec. 52. Offences cognizable by Nyaya Panchayats.—(1) The following offences as well as abetments of and attempts to commit such offences, if committed within the jurisdiction of Nyaya Panchayat, shall be cognizable by such Nyaya Panchayat—

- (a) offences under sections 140, 160, 172, 174, 179, 269, 277, 283, 285, 289, 290, 294, 323, 334, 341, 352, 357, 358, 374, 379, 403, 411 (where the value of the stolen or misappropriated property in cases under sections 379, 403 and 411 does not exceed fifty rupees), 426, 428, 430, 431, 447, 448, 504, 506, 509 and 510 of the Indian Penal Code, 1860 ;
- (b) offences under sections 24 and 26 of the Cattle Trespass Act 1871 ;
- (c) offences under sub-section (1) of section 10 of the United Provinces District Board Primary Education Act, 1926 ;
- (d) offences under sections 3, 4, 7 and 13 of the Public Gambling Act, 1867 ;

- (e) any other offence under aforesaid enactments or any other enactment as may, by notification in the official *Gazette*, be declared by the State Government to be cognizable by a Nyaya Panchayat; and
- (f) any offence under this Act or any rule made thereunder.

(1-A) The State Government may by order published in the official *Gazette*, empower any Nyaya Panchayat to take cognizance of offences under sections 279, 286 336 and 356 of the Indian Penal Code, 1860 and may likewise withdraw any offence referred to in clauses (a) to (d) of sub section (1) from the cognizance of Nyaya Panchayats generally or such Nyaya Panchayats as may be specified.

(2) Any criminal case relating to an offence under sections 143, 145, 151 or 153 of the Indian Penal Code, 1860, pending before any Court may be transferred for trial to the Nyaya Panchayat if in the opinion of such court the offence is not serious.

Commentary

Enforcement.—This section as amended by Section 43 of U. P. Act II of 1955 came into force from July 31, 1955—Vide Notification No. 2814/XXXIII—110—55, dated July 13, 1956.

Jurisdiction.—The jurisdiction is cancelled only when the jurisdiction is vested.¹ The loss of jurisdiction depends only upon the existence of a Nyaya Panchayat at the time of the commission of an offence and not upon the existence the election of a Sarpanch.² The jurisdiction of a case is to be determined upon the *bonafide* allegations made in the complaint.³ Where the allegations in a complaint make out a case not covered by section 52 (1) of this Act, Nyaya Panchayat will have no jurisdiction.⁴ So also a Nyaya Panchayat cannot assure jurisdiction by splitting up several ingredients of a graver offence and try under lesser offence.⁵ But a case cannot be said to be cognizable by a Nyaya Panchayat unless all the offences are cognizable by it.⁶ So also jurisdiction to try any of the offences mentioned in this section cannot be ousted by introducing a prayer under section 106 Cr. P. C. which a Nyaya Panchayat cannot grant.⁷

1. *Tunda v. The State*, 1953 A. L. J. (H. C.) 344; 1953 ALL. 621 1951 Alld. 414 dissented.

2. *State v. Badri*; 1950 A. L. J. 564.

3. *Bhagwan v. State*, 1952 A. L. J. 135.

4. *Brij Narain v. Ram Dayal*, 1954 Alld. 8.

5. *Babu Ram v. The State*, 1955 Alld. (N. U. C.) 5501.

6. *Ram Bishal v. State*, 1952 Alld. 431 and *Chhatter Singh v. State*, 1953 A. L. J. 179; see also *Lal Bachan Singh v. Suraj Bali Singh*, 1952 A. L. J. 134.

7. *Jaisri Tiwari v. State*, 1951 Alld. 494.

The offences mentioned in this sub-section are within the exclusive jurisdiction of a Nyaya Panchayat irrespective of the seriousness of offences. If the complainant wants the accused to be adequately punished he may move for transfer under section 85.¹ The "case" means the entire allegations made in a complaint in respect of the incidents complained of. It does not matter whether incidents make out one particular offence or several offences.²

Offences under Sections 290 and 172 Indian Penal Code.—This section no doubt empowers a Nyaya Panchayat to try a case under section 290 I. P. C. But section 100 provides for a special procedure for removal of construction made on the land belonging to Gram Sabha. So where a notice is given under section 100, only Magistrate can try the accused.³ So also offences under section 172, I. P. C. are triable by a Nyaya Panchayat only where the complaint is made by a person other than the Adalat itself.⁴

Value of stolen property.—The property which should be taken into consideration, is the property recovered from the possession of the accused and not the property which has been stolen.⁵

Provision not *ultra vires*.—In enacting the provisions constituting Nyaya Panchayat, defining their powers laying down the procedure to be followed by them and regulating the rules of evidence in those courts, the U. P. Legislature purported to act under Items 1, 2, 5 and 15 of List III, Schedule VII of the Government of India Act, 1935 and as such the provisions are not *ultra vires* of the U. P. Legislature.⁶

Inadequacy of sentence.—The inadequacy of the sentence which the *Panchayati Adalat* can inflict in a particular case can be no ground for ousting its jurisdiction.⁷

Sec. 53. Security for keeping the peace.—(1) Whenever the Sarpanch of a Nyaya Panchayat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquillity he may call upon such person to show cause why he should not execute a bond for an amount not exceeding Rs. 100 with or without sureties for keeping the peace for a period not exceeding 15 days.

(2) The Sarpanch shall, after issue of such notice refer the matter to a Bench.

The Bench may either confirm the order or discharge the notice after hearing such person and such witnesses as he may desire to produce.

1. *Sheo Dayal v. State*, 1952 A. L. J. 134.

2. *Shafi Ahmad v. State*, 1953 Alld. 584.

3. *Devisahai Tewari v. Gaon Sabba Khamaila*, 1955 A. L. J. 205.

4. *State v. Hem Narain Singh*, 1953 Alld. 200; 1952 A. L. J. 670; 1953 A. W. R. (H. C.) 649.

5. *Budhya Singh v. State*, 1953 A. L. J. 561; 1953 A. W. R. (H. C.) 578.

6. *Tej Bahadur Singh v. State*, 1954 A. L. J. (H. C.) 681,

7. *Sheo Dayal v. State*, 1952 A. L. J. 134; *Bishnath v. State* 1951 A. W. R. (H. C.) 232.

(3) If the person required to execute a bond as aforesaid under sub-section (2) fails to do so, he shall be liable to pay a penalty upto five rupees as the Bench may fix for every day the default continues during the period fixed in the order.

Commentary

Enforcement.—This section as amended by section 54 of U. P. Act II of 1955 came into force from July, 31, 1956—Vide Notification No. 2814/XXXIII—110—55, dated July, 13, 1956 published in the U. P. Gazette, dated July 14, 1956.

Object.—The object of this section is the prevention of an offence and not the punishment of offences. This section empowers a Sarpanch to prevent riots etc. by taking timely steps under this section.¹

Sec. 54. Penalties.—(1) No Nyaya Panchayat shall inflict a substantive sentence of imprisonment.

(2) A Nyaya Panchayat may impose a fine not exceeding one hundred rupees but no imprisonment may be awarded in default of payment :

Provided that no accused shall be tried for more than three offences in the same criminal case and the fine that may be imposed on any one accused in a criminal case shall not in the aggregate exceed one hundred rupees.

Commentary

Enforcement.—The amendments made in the section by section 45 of U. P. Act II of 1955 came into force from July 31, 1956—Vide Notification No. 2814/XXXIII—110—55 dated July 13, 1956.

Limit of fine that can be imposed.—Where there are more than one accused, the fine that can be imposed on each accused is not limited by the total number of the accused and the aggregate amount of fine imposed on them taken together. If the fine imposed on each accused either for one offence or more, in aggregate does not exceed Rs. one hundred, the fact that the total amount of fine imposed on all the accused, exceeds Rs. one hundred, will not render the sentence illegal.² The newly added proviso limits the amount of fine that can be imposed on a single accused for one or three offences, to rupees one hundred only.

Sentence.—The provisions of Cr. P. C. do not govern the proceedings before a Panchayati Adalat. It may be illegal under the Cr. P. C. to convict without specifying the sections or to pass one sentence for a number of offences but it does not follow that it would be illegal for a Panchayati Adalat also to record a conviction without specifying the offences and to pass one sentence for all of them. None of the provisions of the Panchayat Raj Act, make it illegal for Panchayati Adalat to record conviction without

1. *Gawar Singh v. Sub-Divisional Officer*, 1955 Alld. (N. U. C) 1758.

2. *Mohar Singh v. State*, 1953 A. L. J. (H. C.) 265; 1953 A. W. R. (H. C.) 177.

specifying the offences or to inflict one sentence for a number of offences. Therefore if for three offences, the Panchayati Adalat passes only one sentence, and does not pass separate sentences, it cannot be said that the sentence is illegal, provided the sentence passed by it is within its competence.¹

Sec. 55. Cognizance of cases.—(1) After a Nyaya Panchayat has been established for any area, no court except as otherwise provided in this Act shall take cognizance of any case triable by such Nyaya Panchayat.

(2) When a Nyaya Panchayat is suspended, superseded or dissolved under section 95, or for any other reason ceases to function, all cases pending before it shall stand transferred to the court of competent jurisdiction which shall dispose them of according to law :

Provided that the trial of all such cases in court shall commence *de novo* :

Provided further that a Nyaya Panchayat shall not be deemed to cease to function merely for the reason that its Panches have to be re-elected.

(3) Notwithstanding anything contained in section 52 and in sub-section (1) of this section any court may take cognizance of any offence under sections 431 and 447 of the Indian Penal Code, 1860, if it is otherwise competent to do so.

(4) Notwithstanding anything contained in section 52 and sub-sections (1) to (3) of this section but subject always to the provisions of the Code of Criminal Procedure, 1898, where any court has taken cognizance of any offence referred to in the said sections and a summons or warrant, as the case may be, has issued for the appearance of the accused in such case, the offence may be enquired into and tried by such court.

Commentary.

Enforcement.—The amended section came into force from May, 1 1956—Vide Notification No. XXXIII—110—55, dated April 27, 1956, published in the U. P. Gazette, dated May, 5, 1956 Page 643 and as corrected by Notification No. 3144/XXXIII—110—55, dated July 26, 1956 published in the U. P. Gazette, Part III, dated August 4, 1956, Page 401.

Scope.—It is only where action has not been taken under section 85 that section 55 will come into play and forbid all courts from taking cognizance of a suit or case which is cognisable by a *Panchayati Adalat*.²

1. *Bhagwati v. State*, 1956 A. L. J. (H. C.) 6.

2. *Kirpa Ram v. Ram Asrey* A. I. R. 1951 Alld, 44.

Jurisdiction.—The jurisdiction of a court depends upon the allegations in the complaint and not upon the result of the case.¹ The bar of jurisdiction, is a bar which has reference to entire proceeding i. e., involving all the accused together.² The jurisdiction of ordinary courts will not be ousted merely because some of the offences are triable by a Nyaya Panchayat.³ Before a Magistrate can assume jurisdiction of a case, it must be shown to him that the Nyaya Panchayat has no jurisdiction over it. The law is not that before a Nyaya Panchayat can assume jurisdiction, it must be shown that it had no jurisdiction. Thus as long as it is not alleged by the opposite party that he suffered damages more than Rs. 50, the Nyaya Panchayat can try the case.⁴

The words "any case" means the entire case and not a case against any particular accused.⁵ The jurisdiction of a case will depend upon the allegations made in the case.⁶ But introduction in a complaint under section 106, C. P. C will not take away the jurisdiction of a Nyaya Panchayat.⁷ The scope of sub-sections (1) & (2) is controlled by sub-section (3) and that of sub-sections (1) to (3) by sub-section (4) as amended.⁸

Sec. 56. Transfer of cases by courts to Nyaya Panchayats.—A Court, if it finds that a case is triable by a Nyaya Panchayat shall, except as provided in sub-section (4) of section 55 transfer the case to the Nyaya Panchayat of competent jurisdiction, which shall thereafter try the same *de novo*.

Commentary

Enforcement.—The section as amended by Section 47 of U. P. Act II of 1955 came into force from April 15, 1956—Vide Notification No. 1598/XXXIII—110—55, dated April 7, 1956, published in the U. P. Gazette Part III, Page 173, dated April 14, 1956.

Applicability.—The section is worded most widely so as to embrace every stage of a case from the beginning of the proceedings upto its conclusion. It is mandatory on a court to transfer a case to the Panchayati Adalat even though the complaint and the trial relate to offences not cognisable by the Panchayati Adalat and it is only at the stage of writing the judgment that the court finds that only offence cognisable by the Panchayati Adalat has been committed.⁹ This section applies only before the judgment is pronounced.¹⁰ After delivery of judgment no case can be transferred.¹¹ But

1. *Bhagwan v. State* 1952 A. L. J. 135.
2. *Bhimsen v. State of U. P.* 1956 A. L. J. (S. C.) 405 ; 1955 S. C. 435 ; 1955 Cr. L. J. 1610.
3. *Ram Bishal v. State*, 1952 All. 431 ; 1951 ; A. W. R. (H. C.) 147.
4. *Matabikh v. Baijnath*, 1955 All. 249 F. B.
5. *Chhatar Singh v. State*, 1953 A. L. J. 153.
6. *Bhagwan v. State*, 1952 A. L. J. 135.
7. *Jai Sri Tiwari v. State* 1951 All. 491.
8. *Ashiq Ali v. Sub-Divisional Magistrate Hathras*, 1956 A. L. J. (H. C.) 934.
9. *Shankar Singh v. State*, 1952 A. L. J. 199.
10. *Ram Din v. State*, 1950 A. W. R. (H. C.) 679 ; 1951 All. 554 ; *Sheo Dayal v. State* 1951 A. W. R. (H. C.) 519 ; 1952 A. L. J. 134 and *Shankar Singh v. State* 1952 A. L. J. 199.
11. *Badri v. State*, 1953 All. 189-1950, A. L. J. 564 ; *Govaran v. State* 1953 All. 188.

pronouncing judgment is entirely different from forming an opinion about guilt, innocence or applicability of Law regarding vicarious liability. The section itself contemplates, that Magistrate can form an opinion about the precise nature of offence committed.¹

Scope.—Under the old section the provisions of transfer applied only to the trial court.² But under the amended section every court has power to transfer including appellate court.³ The High Court had no power to transfer except in exercise of their powers of superintendence under the Constitution.⁴ A Magistrate cannot make assumption and refuse to transfer on the ground that a Nyaya Panchayat cannot award adequate punishment because that is the business of Nyaya Panchayat under section 58 (b).⁵

The Magistrate can split up a case into two for example—if A and B are tried together for an offence the magistrate can split up the case into two cases, one against each accused or if A is tried of two offences, he can split up the case in respect of each offence.⁶

Transfer.—The word “Transfer” has been deliberately used as this section applies to cases which are pending in any court and in such a case the Magistrate is not ordered to return the complaint for presentation in the proper court but he is allowed to retain jurisdiction to the extent of transferring the case to a Nyaya Panchayat.⁷ Where a person is neither a person arrested nor a person “detained” in custody, Art. 22 (1) of the Constitution does not apply and the Magistrate cannot refuse to transfer a case to the Panchayati Adalat which is exclusively triable by the latter.⁸

Powers of Appellate Court —The section uses the word “a court” which is wide enough to cover even appellate court. Thus under the provision of this new section any court may transfer the case when it is found that the offence is one which is covered by section 52 of the Act. This is in consonance with the view expressed in Ajodhya Singh’s case.⁹ But a contrary view was taken in another case.¹⁰

Powers of High Court.—The Magistrate under this section is empowered to transfer the case to the Panchayati Adalat, if the same is triable by Panchayati Adalat under section 52. But the High Court under section 526, Cr. P. C. is not empowered to do the same. Though in view of

1. *Sudarshan Lal v. Raghunath Prasad*, 1955 All. (N. U. C.) 2675 (disenting from *Govaran v. State*, 1953 All. 188).

2. *Padam Singh v. State* 1955 All. (N. U. C.) 415.

3. *Ajodhya Singh v. Balishwar Singh*, 1952 A. L. J. 304.

4. *Abdul Aziz v. State*, 1950 All. 611-1950 A. L. J. 519 see also *Pratap Bahadur v. Ram Bahadur Singh* 5 D. L. R. 315; *Kameshwar Singh v. Bharat* 1953 All. 180.

5. *Lal Bachan Singh v. Suraj Bali*, 1952 A. L. J. 195.

6. *Sudarshan v. Raghunath* 1955 All. (N. U. C.) 2675.

7. *Kirpa Ram v. Ram Asrey*, 1951 All. 414; 1950 A. L. J. 863; 1950 A. W. R. 681.

8. *Lal Bachan Singh v. Suraj Bali Singh*, 1952 A. L. J. 195.

9. *Ajudhya Singh v. Baleswar Singh*, 1952 All. 818.

10. *State v. Lalta Singh*, 1955 A. L. J. 717; 1956 All. 73. see also *Ganga Prasad v. State* 1953 All. 334.

the powers given by Article 227 (1) of the Constitution of India the High Court can give direction to the Magistrate to transfer the case to the Panchayati Adalat which has got jurisdiction over it.¹ But the High Court will not interfere Art. 227 of the Constitution when other remedies are open to the applicant.²

Sec. 57. Summary dismissal of Complaint.—Nyaya Panchayat may dismiss any complaint if after examining complainant and taking such evidence as he produces it is satisfied that the complaint is frivolous, vexatious or untrue.

Sec. 58. Transfer of cases by Nyaya Panchayat to courts.—If at any time it appears to a Nyaya Panchayat—

(a) that it has no jurisdiction to try any case pending before it;

(b) that the offence involved is one for which it cannot award adequate punishment, or

(c) that the case should otherwise be tried by a court;

it shall transfer the same to the court of competent jurisdiction and shall give information of such transfer to the parties concerned.

Sec. 59. Certain persons not to be tried by Nyaya Panchayats.—No Nyaya Panchayat shall take cognizance of any criminal case against a person where such person—

(a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more,

(b) has been previously fined for theft by any Nyaya Panchayat,

(c) has been bound over to be of a good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898;

(d) has been previously convicted under the Public Gambling Act, 1867, or

(e) is a public servant.

Commentary

Enforcement.—The section as amended by Section 49 of U. P. Act II of 1955 came into force from July 31, 1956—Vide notification referred to in the notes under section 58.

1. *Abdul Aziz v. State*, 1950 All. 611; 1950 Cr. L. J. 579, also see *Pratap Bahadur v. Dan Bahadur Singh*, 5 D. L. R. 315.

2. *Kameshwar Singh v. Bharat A. I. R.* 1953 All. 180.

Scope.—What is excluded from the jurisdiction of a Nyaya Panchayat, is the cognizance of any criminal case, not only against any particular individual but the whole case. Thus where the allegation is, that four persons jointly committed an offence and only one of the accused is a person who comes under the clauses (a) to (e) the case against all the accused is excluded.¹

Any criminal case.—Means the entire case and not a case against any particular accused.²

Clause (a). “Convicted.”—The word “convicted” in clause (a) does not mean sentenced. The actual sentence awarded is not concerned but the offence of which the accused person has been previously convicted, should be one punishable with imprisonment of either description for a term of three years or more.³

Sec. 60. Compensation to complainants.—In imposing any fine the Nyaya Panchayat may order any portion or the whole of the fine recovered to be applied—

- (a) in defraying the expenses properly incurred in the criminal case by the complainant;
- (b) in the payment to any person of compensation for any material loss or injury caused by the offence, or
- (c) in compensating any *bona fide* purchaser of stolen property for loss of the same, where property is restored to the possession of the person entitled thereto.

Sec. 61. Compensation to the accused.—(1) If in any criminal case instituted before a Nyaya Panchayat any person is accused of any offence triable by a Nyaya Panchayat and the Nyaya Panchayat acquits the accused and is of the opinion that the accusation against him was false and either frivolous or vexatious, the Nyaya Panchayat may, call upon the complainant forthwith to show cause why he should not pay compensation to such accused.

(2) If after hearing the complainant, the Nyaya Panchayat is satisfied that the accusation was false and either frivolous or vexatious, it may direct that compensation not exceeding twenty-five rupees be paid by such complainant to the accused.

Sec. 62. Release of offenders on probation.—The powers under section 4 of the United Provinces First Offenders Probation Act, 1938, may be exercised by a Nyaya Panchayat.

1. *Gokaran v. State*, 1953 All 188; see also *Sudarshan Lal v. Raghunath Prasad*, 1955 All. N.U.C. 2675.

2. *Chhatar Singh v. State*, 1953 All. 161; 1953 A. L. J. (H. C.) 179.

3. *Nata v. State*, 1954 A. L. J. (H. C.) 124; 1954 All. 600.

Sec. 63. *Enquiry in cases forwarded by magistrates.*—Notwithstanding anything in the Code of Criminal Procedure, 1898, a Magistrate may direct an enquiry referred to in section 202 of the Code to be made by a Nyaya Panchayat in a criminal case in which the offence was committed within the territorial jurisdiction of such Nyaya Panchayat and the Nyaya Panchayat shall enquire into the case and submit its report to the said Magistrate. On the receipt of the directions the Sarpanch or Sahayak Sarpanch and in their absence the Panch mentioned in section 15, shall entrust it to a Bench formed under section 49.

Sec. 64. *Extent of jurisdiction in civil cases.*—(1) Subject to the provisions of section 66 a Nyaya Panchayat may take cognizance of any civil case of the following description if its value does not exceed five hundred rupees—

- (a) a civil case for money due on contract, other than a contract in respect of immovable property ;
- (b) a civil case for the recovery of movable property or for the value thereof ;
- (c) a civil case for compensation for wrongfully taking or injuring a movable property ; and
- (d) a civil case for damages caused by cattle trespass.

(2) The State Government, may by notification in the Official Gazette, direct that the jurisdiction of any Nyaya Panchayat shall extend to all such civil cases of the value not exceeding five hundred rupees.

Commentary

Enforcement.—The section as redrafted and substituted by section 53 of the U. P. Panchayat Raj Amendment Act II of 1955, came into force from July 31, 1956—Vide Notification No. 2814/XXXII-I-110—55, dated July 13, 1956.

Scope.—A Nyaya Panchayat can entertain a suit for possession of movable property and also for the price thereof. It is not necessary that the suit should be for the price of that movable property only in respect of which specific delivery could be ordered by the Panchayat Court.¹

Jurisdiction.—The jurisdiction of the court in every case is to be determined by allegation made in the plaint and not by the result of the suit.²

Sec. 65. * * *

Sec. 66. Exclusion of Nyaya Panchayat's jurisdiction.—Subject to the provisions of section 64, a Nyaya Panchayat

1. *Raghu v. Panchayati Adalat* 1953 A. L. J. (H. C.) 245.

2. *Devi Sahai v. Ganga Sahai*, 1954 Alld. 749; 1954 A. L. J. 341.

shall have no jurisdiction to take cognizance of the following civil cases—

- (1) a civil case for a balance due on partnership account, except where the balance has been struck by the parties or their agents ;
- (2) a civil case for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will ;
- (3) a civil case by or against the State Government or the Central Government or a public servant for acts done in his official capacity ;
- (4) a civil case by or against a minor or a person of unsound mind ; and
- (5) a civil case the cognizance of which by a Panchayat established under the U. P. Village Panchayat Act, 1920, is barred by section 25 of the United Provinces Debt Redemption Act, 1940.

Sec. 67. Civil cases to include the whole claim—(1) Every civil case instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the civil case within the jurisdiction of the Nyaya Panchayat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of his claim he shall not afterwards sue in respect of the portion so omitted or relinquished.

Sec. 68. Limitations.—Every civil case instituted before a Nyaya Panchayat after the period of limitation prescribed therefor in the schedule shall be dismissed, even though limitation has not been set up as a defence :

Provided that in computing the period of limitation prescribed for any civil case the time during which the plaintiff has been prosecuting with due diligence another civil case against the defendant in any court, shall be excluded where the other case is founded upon the same cause of action and is prosecuted in good faith in a court which from defect of jurisdiction or other cause of a like nature is unable to entertain it.

Sec. 69. Effect of the decision by Nyaya Panchayat.—The decision of a Nyaya Panchayat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the civil case in which such matter is decided.

Sec. 77. Chairman of a Bench.—The Bench shall choose one of the members to be the Chairman of that Bench who shall conduct the proceedings :

Provided that where the Sarpanch or the Sahayak Sarpanch is a member of the Bench he, and where both of them are members of the same Bench the Sarpanch shall be the Chairman.

Commentary

Enforcement. The amended section came into force from July 31, 1956—Vide Notification No. 2814/XXXIII—110—55, dated July 13 1956.

Scope. In a case where from order sheet or judgment it appears that a particular member acted as Sarpanch, it is necessary to elect another Chairman. The proceedings will not be illegal.¹ Sarpanch has no power to interfere with the proceedings of a Bench.²

Sec. 77-A Absence of a panch from the Bench.—(1) If any *panch* appointed to a bench constituted under section 49 is absent at any hearing, the remaining *panches* may, notwithstanding anything contained in this Act, try the criminal case, civil case or revenue case, provided, however, that at least three *panches*, including the Chairman, are present and provided further that at least one of the *panches* present is able to record evidence and proceedings.

(2) No trial as aforesaid shall be invalid by reason merely that all the five *panches* forming the bench were not present at any hearing or that the same *panches* were not present at all the hearings.

(3) The provisions of sub-sections (1) and (2) shall *mutatis mutandis* apply to an inquiry made by a Nyaya Panchayat under section 63.

Commentary

Enforcement.—The amendments made by section 64 of U. P. Act 11 of 1955 came into force from July 31, 1956—Vide Notification No. 2814/XXXIII—110—55, dated July 13, 1956.

Retrospective operation.—The section came into force from June 16, 1952 and applied with retrospective effect to the cases,³ and became absolute. But although this section was applied retrospectively, it did not reopen orders or decisions already made.⁴

1. *Pearly v. State*, 1955 A. L. J. (H. C.) 328.

2. *Jodha v. State*, 1952 Alld. 788; 1952 A. L. J. 493.

3. *Ram Prasad v. State*, 1952 A. L. J. 181 and *Jiwa Ram v. Panchayati Adalat*, 1952 R. D. 97 and *Tajjamul v. Mohammad Ismail*, 1952 Alld. 924.

4. *Badri v. Srinath*, 1953 Alld. 328.

Effect of introduction of Section 77-A.—The effect of the section is that if any Panch is absent at any hearing the remaining Panches may try the case. A Chairman is also a Panch and the words "including the Chairman" govern the preceding word "three Panches".¹ However a Bench consisting of less than five Panches will not be validly constituted unless the provisions of this section are complied with.²

Resignation from Panchayat.—In a case where two Panches make an application signifying their unwillingness to act on the Panchayat and they mention in the application, that they would await the order of the Sarpanch and if no order is passed, the Panches would be deemed to have continued as members of the Adalat. It cannot be said that Panchayat was not duly constituted.³

Death of Panch.—The death of any Panch of the Bench will not cause an automatic dissolution of any Bench trying a case. Where one of the five Panches dies, the remaining Panches can proceed with the case provided one of the Panches is capable of recording the proceedings.⁴ The death of the Panches does not cause automatic dissolution of the Bench.

Evidence.—If the Panchayati Adalat calls an outsider to record the evidence there is a breach of the said provision and the proceeding, will become illegal.⁵

Hearing.—The term includes the stage of delivery of the judgment itself.⁶

Sec. 78. Dismissal of suits and cases in the absence of the party concerned.—(1) If the plaintiff, the complainant, or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Nyaya Panchayat may dismiss the civil case, criminal case or revenue case or pass such order as it may deem fit.

(2) The Nyaya Panchayat may hear and decide the civil case, criminal case or revenue case in the absence of the defendant, accused or opposite party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

Commentary

Scope.—The section empowers the Bench to pass an *ex parte* decree or order in a civil case or revenue case and to convict and sentence an accused in a criminal case. But this section does not empower a Nyaya Panchayat

1. *Mohan Lal v. Sarpanch Panchayati Adalat, Nagpur*, A.I.R. 1954 All. 159; 1953 A.L.J. 586, see also *Pitari Lal v. State*, A.I.R. 1955 N.U.C. 862 (All.); 1955 A.L.J. 261; *Jaleel Ahmad v. Mansab*, 1954 A.L.J. 184; A.I.R. 1954 All. 184, *Baldeo v. The State*, A.I.R. 1954 All. 650; 1954 A.L.J. 232.

2. *Sheo Moorat v. Bhagwati*, 1955 A.L.J. 26.

3. *Pjare Lall v. State*, 1954 A.L.J. (H.C.) 267.

4. *Ram Garib v. Panchayati Adalat*, 1954 A.L.J. 441.

5. *Purshotam v. State*, A.L.J. 195.

6. *Baldeo v. State*, 1954 A.L.J. 232.

to impose any penalty, notwithstanding summons has been served on the defendant or the accused and still he fails to appear.¹

Service of summons.—Where a summons issued to the accused was returned as unserved with a report that the accused was not found at home, there is no sufficient service within the relevant Rules framed under the Act. Hence an *ex parte* conviction of the accused in such a case cannot be sustained.²

Sec. 79. *Nyaya Panchayat not to revise or alter its decision.*—(1) Except as provided in sub-section (2), or to correct a clerical error, a Nyaya Panchayat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) A Nyaya Panchayat may, for sufficient reasons to be recorded, on application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been affected restore any civil case, criminal case or revenue case which has been dismissed in default or in which a decree or order has been passed *ex parte*.

Commentary

Re-starting of case.—It is not correct to say that a case which has been dismissed for default cannot be restarted when the summons has been served upon the defendant or an accused before the date of dismissal of the case.³

Sec. 80. *Legal practitioner not to appear before Nyaya Panchayat.*—No legal practitioner shall appear, plead or act on behalf of any party before a Nyaya Panchayat :

Provided that a person who is arrested and is detained in custody shall have the right to consult and be defended by a legal practitioner of his choice.

Commentary

Enforcement.—The amended section came into force from July 31, 1956—Vide Notification No. 2814/XXXIII—110—55, dated July 13, 1956.

Validity.—The Proviso does not offend against equal protection guaranteed by Article 20 of the Constitution.⁴

Arrested and detained in custody.—If a person has been arrested and released on bail, he cannot be said to be detained in custody and he is not entitled to be represented by a legal practitioner.⁵

1. *Ram Garib v. Panchayati Adalat*, 1954 A. L. J. (H. C.) 441.

2. *Sant Prasad v. State*, 1952 All 785; 1951 A. L. J. 719.

3. *Narain Das v. Panchayati Adalat*, 1955 A. L. J. (H.C.) 524; 1955 N. U. C. 4487 Alld.

4. *Tej Bahadur Singh v. State*, 1954 A. L. J. (H. C.) 681.

5. *Lal Bahadur Singh v. Suraj Baji Singh*, 1952 A. L. J. (H. C.) 195; 1952 A. W. R. (H. C.) 224.

Sec. 81. *Appearance in person or by representative.*—Subject to the provisions of section 80, any party to a civil case, criminal case or revenue case may appear before a Nyaya Panchayat either in person or by such servant (not being a tout), partner, relation or friend duly authorised in writing by him as the Nyaya Panchayat may admit as a fit person to represent him :

Provided that no stamp duty shall be required to be paid for any power of attorney filed under this section.

Sec. 82. *Special jurisdiction in certain matter.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for a Nyaya Panchayat to decide any dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or oath agreed upon in writing by the parties.

Commentary

Enforcement.—Same as under section 80.

Scope.—The extended jurisdiction under this section can be exercised only if the parties agree to it in writing and is one which falls within the four corners of this section.¹ A Nyaya Panchayat has jurisdiction under this section to record any settlement, arrived at between the parties, irrespective of the fact whether it had jurisdiction to hear and decide that particular nature of dispute or not. Thus where on the amendments made in the Land Revenue Act, although Panchayati Adalat had no jurisdiction to order for correction of papers itself; held, that it could record compromise and order correction in exercise of its extended jurisdiction under section 82.² Under this section any kind of dispute, civil, revenue or criminal can be decided in accordance with the settlement arrived at between the parties.

Cancellation of orders passed under section.—A regular suit for cancellation of the order may be filed on the ground of fraud, conspiracy and collusion.³

The orders passed under this section cannot be revised by S. D. O., S. D. M. or Munisif in exercise of their powers under section 89. The High Court also will not interfere in it.⁴

Sec. 83. *Procedure and power to ascertain truth.*—(1) Nyaya Panchayat shall receive such evidence in a civil case, criminal case or revenue case as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue. It shall be the duty of the Nyaya Panchayat to ascertain the facts of every civil case,

1. *Abdul Rashid v. Mohammad Ayub*, 1955 A. L. J. 361, as reported in 1956 A. L. J. (H. C.) 102.

2. *Bikram Singh v. Suraj Pd. Singh* 1955 A. L. J. (H. C.) 590.

3. *Bikram Singh v. Suraj Pal Singh*, 1955 A. L. J. (H. C.) 590.

4. *Bikram Singh v. Suraj Pal Singh*, 1955 Alld. N. U. C. 4435.

criminal case or revenue case before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as to it may seem just and legal. It may make local investigation in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908, the Code of Criminal Procedure, 1898, the Indian Evidence Act, 1872 and the Indian Limitation Act, 1908, shall not apply to any civil case, criminal case or revenue case in a Nyaya Panchayat except as provided in this Act or as may be prescribed.

Nothing in this sub-section shall entitle any party to compound any offence which is not compoundable under the provisions of the Code of Criminal Procedure, 1898, or to compound an offence without the permission of the Bench concerned, if it is compoundable with permission under the provisions of the said Code.

Commentary

Enforcement.—Same as under section 80

Scope.—The Nyaya Panchayat cannot convert civil proceedings into criminal proceeding. The C.P.C., Evidence Act etc. are made inapplicable even in revision.¹

Procedure.—The Bench is not restricted to follow any particular procedure in respect of any evidence upon which it should act, but it cannot override the provision of section 49 (3) or act in any way which is against natural justice.² Complete record of proceedings before a Nyaya Panchayat is not necessary although it should be kept to avoid dispute. The record must show that real justice has been dispensed between the parties. An omission to record that charge was explained or oath administered to the witness will not vitiate the proceedings or conclude that these acts were not done by the Bench.³

Oath to accused.—The mere fact that accused was administered oath will not vitiate the proceedings unless he is also allowed to be cross examined.⁴

Commission and investigation.—A Nyaya Panchayat can also appoint outsiders as commissioners to make local inspections and rely upon their report.⁵ The Panchayati Adalat has the power to appoint a Commis-

1. *Srinath v. Bhagwandin*, 1955 A. L. J. 756; 1951 A. L. J. (H. C.) 654, A. I. R. 1951 All. 391.

2. *Bansi v. State*, 1952 A. L. J. 654; 1952 Alld. 38.

3. *Lachman Singh v. Ghanshyam*, 1953 A. L. J. 638; 1954 Alld. 175; 1953 A. W. R. (H. C.) 571.

4. *Girja Prasad v. Zalim Singh*, 1953 Alld. 340; 1953 A. W. R. (H. C.) 61 (1952 Alld. 785 distinguished.)

5. *Girja Parsad v. Zalim Singh*, 1953 Alld. 340 1953 A. L. J. (H. C.) 84; 1953 A. W. R. (H. C.) 61.

sioner to make an inspection or to examine specified persons as witnesses but it has no power to appoint a third person to make a general enquiry into the facts alleged in a complaint filed before it. Even when a commission is issued the commissioner cannot act on his own without notice to the parties and the latter must have an opportunity of cross-examining the commissioner on his report.¹ The commission can be issued for any purpose for which commissions are issued by criminal or civil courts.² But the outsiders cannot be associated in investigation or trial.³ The Sarpanch who is not a member of the Bench cannot appoint Commissioners.⁴

Inquiry.—A decision based largely on secret inquiry is illegal.⁵

Sentence.—The Nyaya Panchayat can pass one sentence for several offences.⁶

High Court's powers.—It cannot interfere with an order of Nyaya Panchayat under Section 561 Cr. P. C.⁷

Validity.—The mere fact that this Act lays down a different procedure and different rules of evidence is no ground to hold that this violates the equal protection clause of Article 20 of the Constitution.⁸

Sec. 84. Majority to prevail.—In the event of any disagreement between the Panches the opinion of the majority shall prevail.

Sec. 85. Power of superior courts to transfer cases from Nyaya Panchayats.—(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard or on his own motion without such notice the Sub-Divisional Magistrate, the Munsif or the Sub-Divisional Officer, according as the case pending before a Nyaya Panchayat is a criminal case, civil case or revenue case may, at any stage, withdraw the same and—

- (i) try to dispose of the same, or
- (ii) transfer it to another Bench of the Nyaya panchayat, or
- (iii) transfer the same for trial or disposal to any other Magistrate, Munsif or Assistant Collector competent to try or dispose of the case,

1. *Buschnia v. S. D. M.* 1961 R. D. 134, 1961 A. L. J. 248.

2. *Kesho Dutta v. Panchayati Adalat*, 1954 Alld. 84 (F. B.) ; 1953 A. L. J. 731.

3. *Suraj Prasad v. State* 1952 All. 785 ; 1951 A. L. J. 719 ; 1951 A. W. R. (H. C.) 424.

4. *Jodha v. State* 1952 All. 788 ; 1952 A. L. J. 498.

5. A. I. R. 1954 All. 304 ; *Nanda v. State*, 1957 Cr. L. J. 247.

6. *Bhagwati v. State* 1951 A. L. J. (H. C.) 654.

7. *Panchayati Adalat v. Pearcey Lal*, 1955 N. U. C. 862 (Alld.)

8. *Tej Bahadur Singh v. State*, 1954 A. L. J. (H. C.) 681 ; 1954 Alld. 655.

(2) Where any criminal, civil or revenue case has been withdrawn under sub-section (1) the court or officer who thereafter tries such criminal case, civil case or revenue case may either re-try it or proceed from the point at which it was withdrawn.

(3) If any application under sub-section (1) is either frivolous or vexatious the applicant may be fined up to five rupees by the Sub-Divisional Magistrate, the Munsif, or the Sub-Divisional Officer, as the case may be.

Commentary

Enforcement.—The section as amended by section 69 of U. P. Act of 1955, came into force from April 15, 1956, by Notification No. 15 XXXIII—110—50, dated April 7, 1956, published in the U. P. Gazette dated April 4, 1956, Part III, Page 173.

Jurisdiction to transfer.—The jurisdiction to transfer to and withdraw under this section will arise only when the case is pending one. If there is no case pending before a Nyaya Panchayat, no application will lie under this section.¹ “Pending case” under this section means a case pending before a Nyaya Panchayat. A case pending in the court of a Magistrate cannot be transferred or withdrawn under this section.² Applications record a compromise under section 82, are not proceedings and cannot be withdrawn.³

Procedure.—There is no specific procedure now provided under the rules for such an application. The application may be accompanied by affidavit as under the old 95-A now deleted,⁴ is no longer applicable to an application under this section.

Stay of proceedings.—Unless there is an express order for stay of proceedings the order of Nyaya Panchayat before sending record to the court will not be without jurisdiction.⁵

Execution of decrees.—See. Rule, 128.

Sec. 86. Issue to summons of witnesses.—A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a civil case, criminal case or revenue case issue and cause to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such document, and such person shall be bound to comply with the direction contained in the summons.

1. *Jaisri Tewari v. State*, 1951 Alld. 494.

2. *Lal Bachan Singh v. Suraj Bali Singh*, 1952 Alld. 924; 1952 A. L. J. 1950; see also *Prabhu Bahadur Singh v. Dam Bahadur Singh*, 5 D. L. R. (Alld.) 315.

3. *Balram Singh v. Suryopal Singh*, 1955 A. L. J. 590.

4. *Mohan Singh v. Harish Chandra*, 1954 A. L. J. (H. C.) 145.

5. *Ram Singh v. Durga Prasad*, 1954 A. L. J. (H. C.) 305; 1955 N. U. C. 4442 (Alld.)
see also *Chotey v. Ram Singh*, 1953 A. L. J. 712.

Sec. 87. Penalties for failing to appear before a Nyaya Panchayat.—If any person who is summoned by a Nyaya Panchayat by a written order to appear to give evidence or to produce any document before it, wilfully disobeys such summons or notice or order, the Nyaya Panchayat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees :

Provided that no woman shall be compelled to appear in person before the Nyaya Panchayat. She may be examined on commission in the manner prescribed :

Provided also that if a document is produced in obedience to a summons issued under this section, the Nyaya Panchayat shall cause the document to be copied, mark the copy, after comparing with the original to be true copy and return the original document to the person producing the same.

Provided further that where it appears to the Nyaya Panchayat that a witness is unable to appear before it by reason of illness or physical infirmity or that his presence cannot be produced without unreasonable delay, expense or inconvenience, it may, subject to such restrictions as may be prescribed, issue a commission in the manner prescribed to take the evidence of such witness. The evidence so taken shall form part of the record of the case.

Sec. 88. Dismissal of civil cases etc.—A Nyaya Panchayat may dismiss any civil case or revenue case if after examining the plaintiff or the applicant it is satisfied that the civil case or revenue case is frivolous, vexatious or untrue.

Sec. 89. Revision.—(1) A sub-Divisional Magistrate, Munsif or Sub-Divisional Officer, according as it is a criminal case, civil case or revenue case may either on his own motion or on the application of any party made within 60 days from the date of the order complained of or where personal service of summons had not been effected on the applicant from the date of the knowledge of the order call for the record of any case which has been decided by a Nyaya Panchayat and if it appears to him that injustice or material irregularity has occurred, he may make such order in the case as he thinks fit.

Explanation.—Failure to exercise a jurisdiction vested by law or exercise of jurisdiction in excess of that vested by law shall for purposes of this section be deemed to be a material irregularity.

(2) Without prejudice to the generality of the foregoing provisions, the Sub-Divisional Magistrate, Munsif or Sub-Divisional Officer, as the case may be, may—

- (a) quash the decree or order passed by the Nyaya Panchayat,
- (b) modify the order,
- (c) remand the case to the Nyaya Panchayat for retrial with such direction as he may deem fit, or
- (d) try the case himself or transfer it to another court or Officer competent to try the same.

(3) If any application under sub-section (1) is found by the Sub-Divisional Magistrate, Munsif, or Sub-Divisional Officer, as the case may be, to be frivolous or vexatious, he may, for reasons to be recorded, make an order for the payment to the opposite party by the applicant of special costs not exceeding fifty rupees by way of compensation.

(4) Except as aforesaid, a decree or order passed by a Nyaya Panchayat in any civil case, criminal case or revenue case shall not be open to appeal or revision in any court.

Commentary

Enforcement.—The amended section came into force from April 15, 1956—Vide Notification No. 1598/XXXIII—110—55, dated April 7, 1956, published in the U. P. Gazette, dated April 14, 1956, Part II at Page 173.

Scope.—Cases where revision has been admitted and is ready for final hearing and it is then found to be defective the court should further consider the question whether he is inclined to interfere suo moto or not.

Grounds.—In case the order of a Nyaya Panchayat is against natural justice or where the revising court comes to the conclusion that on the evidence produced in the case, the Nyaya Panchayat ought not to have passed the order, the revising court can interfere with the order.¹ In deciding revisions the court should take adequate pains to give judgments.²

The term ‘material irregularity’ relates to material defects of procedure and not errors of either law or fact after the formalities have been complied with.³ The ground does not consist in correcting gross and palpable errors of subordinate courts.⁴ Failure to comply with the provisions of rule will not be interfered unless some prejudice is caused to the party.⁵

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1. *Kali Charan v. Sheo Ram*, 1955 N. U. C. 1502 (Alld).
 2. *Bhai v. Ganga Charan*, 1953 Alld. 118 : 1952 A. L. J. 88.
 3. 1953 S. C. 23 ; *Ch. Kishan Singh v. Board of Revenue*, 1955 A. L. J. 570.
 4. *Venkatagiri v. H. E. R. Board*, 1949 P. C. 156.
 5. *Pearcy v. State*, 1955 A. L. J. 328; see also *Jadhey v. The State*, 1952 A. L. J. 493.

To justify an interference in revision it must be shown that the material injustice has been caused by the order.¹ Inadequacy of sentence is no ground for interference in revision.²

Affidavit.—Revisions cannot be dismissed for want of affidavit.³

Dismissal for default.—The Panchayat Raj Act or the Rules framed thereunder do not appear to contain any express provision for setting aside dismissal for default of revisions preferred under this section. Where, therefore, the authority empowered to revise any order has been moved, if a period of limitation is prescribed therefor within the period so prescribed, and such authority has entertained the revision a duty is cast upon it to judge whether the material irregularity said to have occurred does in fact exist or not. A dismissal for default of an application for revision, though in exceptional cases, it may be made is a very extraordinary order. Therefore, the revising authority will be entitled to consider the revision either of its own motion or when moved by a party.⁴

Limitation.—In view of the amended section and deletion of rule 95-A it is doubtful if the view that the time spent in obtaining the copy of the order should be excluded should be good law.⁵ The view taken in Sheo Devi Rai cases,⁶ may apply under the amended sections and rules.

Power to act suo moto.—In cases where revision has been admitted and is ready for final hearing and it is then found to be defective the court should further consider the question whether he is inclined to take action *suo moto* or not.⁷

However, the High Court,⁸ referred to interfere with the order of the S. D. O. who set aside the orders of Nyaya Panchayat in revision presented beyond time, on the ground that there were interpolations in the record, non service of summons and other irregularities.

High Court's power.—The High Court has the power of superintendence under Article 227 (1) of the Constitution and can always set aside the orders of a Nyaya Panchayat.⁹ High Court can pass any order under Article 226. It can quash an order without jurisdiction or maintain an order within jurisdiction.¹⁰ But where the applicant fails to take the advantage of section 89 in revision, he cannot invoke the powers of High Court under Article 227 of the Constitution.¹¹ In order that an application for writ may lie under Article 226, the applicant has to satisfy that his

1. *Bhatwani Singh v. Nar Singh*, 1952 R. D. 137.

2. *Sheo Dayal v. State*, 1952 A. L. J. 134.

3. *Jagan v. Ram Kishore*, 1954 Alld. 340, and *Mohan Singh, v. Harish Chandra*, 1954 A. L. J. 445.

4. *Bhagwati v. Sadri*, 1961 R. D. 127; 1961 A. L. J. 143.

5. *Ram Singh v. Panchayati Adalat*, 1954 A. L. J. (H. C.) 18.

6. *Sheo Devi Rai v. Bans Narain Rai*, 1954 Alld. 391; 1954 A. L. J. 200; 1954 A. W. R. (H. C.) 145.

7. *Jagan v. Ram Kishore*, 1954 A. L. J. (H. C.) 10.

8. *Sheo Devi Rai v. Bans Narain Singh*, 1953 A. L. J. (H. C.) 200.

9. *Girdhar Lal v. State*, 1952 A. L. J. 148.

10. *Purshotam v. State*, 1955 N. U. C. 1735 (Alld.)

11. *Mohan Singh and others v. Harish Chandra and others*, 1954, A. L. J. (H. C.) 445.

fundamental rights or any other legal right has been infringed and great injustice has been done to him.¹ The High Court cannot by means of a mandamus direct opposite party as to the manner in which a petition should be decided.² It is not open to High Court to interfere with the order under section 561 Cr.P.C.³ Again the orders of a Panchayati Adalat and of S. D. O. cannot be subject to revision under section 435 to 439 Cr. P. C.⁴ High Court cannot give an order for transferring a case under section 323 I. P. C. before a Magistrate to a Nyaya Panchayat, but can give direction.⁵

Execution of decrees.—See Rule 128-A.

Sec. 90. Summons to defendant or accused persons.—A Nyaya Panchayat after an application is made under section 75 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

Sec. 91.

* * *

Sec. 92. Payment of adjustment of decree to be recorded.—If, on the application of the decree-holder or the judgment debtor, the Nyaya Panchayat which passed the decree finds after enquiry that the decree has been satisfied wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

Sec. 93. Execution of decrees.—(1) A decree or order passed by a Nyaya Panchayat shall be executed by it in such manner as may be prescribed. If the property of the defendant, or opposite party is situated outside the jurisdiction of Nyaya Panchayat passing the decree or order, it may in the manner prescribed transfer the decree or order for execution to the Nyaya Panchayat, within whose jurisdiction the property may be situated, and if there be no Nyaya Panchayat then to the court of the Munsif, or Sub-Divisional Officer, as the case may be, within whose jurisdiction it may be situated.

1. *Sheo Devi Rai v. Bans Narain Rai*, 1954 A. L. J. 200.

2. *Tej Bhan Madan v. Government of India*, 1954 A. L. J. (H. C.) 264.

3. *Pyarelal v. State*, 1955 N. U. C. 862 (Alld).

4. *Ramdeo Singh v. State*, 1954 A. L. J. (H. C.) 185; see also *Bansi v. State* 1954 A. L. J. (H. C.) 124.

5. *Abdul Aziz v. State*, 1950 Alld. 611; 1950 A. L. J. 519.

(2) If a Nyaya Panchayat finds any difficulty in executing a decree or order, it may forward the same to the Munsif or Sub-Divisional Officer, as the case may be, who shall then execute the same as if it were a decree or order passed by him.

Commentary

Execution of decrees.—See Rule 128

Sec. 94. Recovery of fine.—Any fine imposed, or compensation ordered to be paid in section 61 by a Nyaya Panchayat shall be recoverable in the manner prescribed. But if the Nyaya Panchayat finds any difficulty in its recovery, it may request the Sub-Divisional Magistrate within whose jurisdiction the Nyaya Panchayat lies to recover it and he shall recover it as if the sentence of fine had been passed by him.

Sec. 94-A. Contempt of Nyaya Panchayat.—(1) If any person intentionally offers any insult to a Nyaya Panchayat or any member thereof, while it is sitting in any stage of judicial proceedings in its view or presence or refuses to take oath duly administered or sign a statement made by the said person when legally required to do so, the Nyaya Panchayat may at any time before rising on the same day take cognizance of the offence and sentence the offender to a fine not exceeding five rupees.

(2) The fine imposed under sub-section (1) shall, for the purpose of section 94 be deemed to be a fine imposed in a criminal case.

CHAPTER—VII

External Control

Sec. 95. Inspection.—(1) The State Government may—

- (a) cause to be inspected any immovable property owned by a Gaon Sabha, used or occupied by a Gaon Panchayat or a joint Committee or a Nyaya Panchayat or any work in progress under the direction of such Gaon Panchayat or joint Committee or a Nyaya Panchayat;
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Gaon Panchayat or a joint Committee or a Nyaya Panchayat;

- (c) by an order in writing require a Gaon Panchayat or joint Committee or a Nyaya Panchayat to furnish such statements, reports or copies of documents relating to the proceedings or duties of the Gaon Panchayat or such Committee or a Nyaya Panchayat as it thinks fit;
- (d) record in writing for the consideration of a Gaon Panchayat or joint Committee any observations which it thinks proper in regard to the proceedings or duties of such Gaon Panchayat or Joint Committee;
- (e) institute any enquiry in respect of any matter relating to a Gaon Sabha, Gaon Panchayat or Nyaya Panchayat; and
- (f) suspend, supersede or dissolve any Gaon Sabha, Gaon Panchayat, joint committee, [Bhumi Prabandha Samiti]¹ or Nyaya Panchayat if in the opinion of the State Government such Gaon Sabha, Gaon Panchayat, Bhumi Prabandha Samiti, Joint Committee or Nyaya Panchayat has abused its position or has continuously failed to perform the duties imposed upon it by or under this Act or its continuance is not considered desirable in public interest;

Explanation.—Suspension or supersession may be for such period as may be specified.

- * (g) suspend or remove a member of a Gaon Panchayat or joint committee or Bhumi Prabandha Samiti an office-bearer of a Gaon Sabha or a Panch, Sahayadhi or Sarpanch or Sarpanch of a Nyaya Panchayat, if he—
 - (i) absents himself without sufficient cause from more than three consecutive meetings or sittings.
 - (ii) refuses to act or becomes incapable of acting for any reason whatsoever or if he is accused of or charged for an offence involving moral turpitude.

*Note.—¹The power of the State Government under clause (g) is delegated to the Sub-Divisional Officer, provided that an order for removal passed by the Sub-Divisional Officer shall be subject to appeal before the District Magistrate within thirty days from the date of such order.

1. Added by U. P. Act No. XXXIII of 1961 vide sch..

- (iii) has abused his position as such or has persistently failed to perform the duties imposed by this Act or rules made thereunder or his continuance as such is not desirable in public interest, or
 - (iv) being a Sahayak Sarpanch or a Sarpanch of the Nyaya Panchayat takes active part in politics,
 - (v) suffers from any of the disqualifications mentioned in clauses (a) to (m) of section 5-A.
- “(h) remove a person if, having been elected as a Pradhan, he does not possess the qualification specified in section 5-B.

(2) A person removed under sub-clause (iii) and (iv) of clause (g) of sub-section (i) of this section shall not be entitled to be re-elected or re-appointed to any office under this Act for a period of five years or such lesser period as the State Government may order in any case.

(3) No order made by the State Government under this section shall be called in question in any court.

(4) Where any Gaon Sabha, [Gaon Panchayat or joint committee or Bhumi Prabandhik Samiti]¹ is superseded the State Government may appoint such person or persons to exercise and perform the powers and duties thereof as it may deem fit.

Sec. 95-A. Power of State Government.—(1) If at any time it appears to the State Government that a Gaon Sabha or a Gaon Panchayat has made default in performing a duty imposed on it by or under this or any other enactment, the State Government may by order in writing fix a period for the performance of that duty.

(2) If the duty is not performed within the period so fixed, the State Government may direct such authority as may be specified to perform it and may further direct that the expenses, if any, of performing the duty shall be paid from the Gaon Fund and thereupon the person having the custody of the fund shall pay the amount from such fund.

Commentary

Resignation by Pradhan etc.—See Rule 60.

Sec. 96. Prohibition of certain proceedings.—(1) The prescribed authority or any other officer specially empowered in this behalf by the State Government on information received or on his own initiative, may, by order in writing prohibit the execution or

1. Added by Sch. VIII of U. P. Act of XXX 1961.

further execution of a resolution or order passed or made under this or any other enactment by a Gaon Sabha, Gaon Panchayat or a joint committee, or any officer or servant thereof if his opinion such resolution or order is of a nature as to cause likely to cause obstruction, annoyance or injury to the public to any class or body of persons lawfully employed, or danger to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) a copy thereof, with a statement of the reasons for making it shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the State Government which may after calling for an explanation from the Gaon Sabha, Gaon Panchayat, joint committee or the officer or servant thereof and considering the explanation, if any, made by it, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section and continuing in force, it shall be the duty of the Gaon Sabha, Gaon Panchayat or the joint committee or any officer or servant thereof, if so required by the authority making such order take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order, of which the further execution is prohibited.

Sec 96-A. Delegation of powers by State Government.—The State Government may delegate all or any of its powers under this Act to any officer or authority subordinate to it subject to such conditions and restrictions as it may deem fit to impose.

CHAPTER VIII

Penalties and Procedure

Sec. 97. Penalty for infringement of the provisions of the Act.—Whoever contravenes any provision of this Act shall be punishable, unless otherwise prescribed, with fine, which may extend to ten rupees, and when the breach is a continuing one with a further fine which may extend to one rupee for every day after the first conviction during which an offender proved to have persisted in the offence.

Sec. 98. Infringement of rules and bye-laws.—In making rules the State Government, and in making a by-law the Gaon

Panchayat with the sanction of the prescribed authority, may direct, that a breach of it shall be punishable with fine which may extend to ten rupees, and when the breach is a continuing one, with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Sec. 99. Penalty for tampering with the Gaon Panchayat's property.—(1) Whoever removes, displaces or makes an alteration in or otherwise interference with any pavement, gutter or other material of a public street, or any fence, wall or post thereof, or a lamp post or bracket, direction post, standpost, hydrant, or other such property of the Gaon Sabha without the written sanction of the Gaon Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees.

(2) If through any act, neglet, or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Gaon Sabha, the person incurring such penalty shall be liable to make good such damages as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

Sec. 100. Disobedience to notice issued.—If a notice has been given to a person under the provisions of this Act or of any rule or by-law made thereunder to a person requiring him to execute a work in respect of any property, movable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and such person fails to comply with the notice, then—

- (a) the Gaon Panchayat may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the prescribed manner as arrears of land revenue;
- (b) such person shall also be liable on conviction before the Nyaya Panchayat, to a fine which may extend to ten rupees and in case of continuing breach, of a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is proved to have persisted in the offence.

Enforcement.—The amendments made by section 78 of U. P. Act 11 of 1955, came into force from July 31, 1956 Vide Notification No. 2814/XXXIII—110—55, dated July 13, 1956.

Scope.—Nyaya Panchayat cannot try the accused under section I. P. C. Nyaya Panchayat can take action only on complaint of a person when nuisance is committed on a private land.¹

Sec. 101. Notice not to be invalid.—No notice shall be invalid on account of any defect or omission in its form.

Sec. 102. Appeals.—(1) Any person aggrieved by an order or direction made by a Gaon Panchayat under the Act or under any rule or by-law may, unless otherwise prescribed, within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof, appeal to the prescribed authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

(2) The prescribed authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the prescribed authority under subsection (1) shall be final and shall not be questioned in any court of law.

Sec. 103. Suspension of prosecution in certain cases.—Where an appeal has been filed against an order or direction in section 102 any proceeding to enforce such order or direction and any prosecution for the breach thereof may, by order of the prescribed authority, be suspended pending the decision of the appeal, and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

Sec. 104. Power to compound offences.—(1) Subject to any rule made in this behalf a Gaon Panchayat may, either before or after the institution of any criminal case, compound an offence against this Act or any rule or by-law made thereunder on payment of such sum in cash to the Gaon Panchayat as may be prescribed.

(2) When an offence has been compounded the offender, in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

All sums paid by way of composition under this section shall be credited to the Gaon Fund.

Sec. 105. Entry and Inspection.—The Pradhan of the Gaon Panchayat and, if authorized in this behalf by the Gaon Pan-

1. *Devi Sahai Tewari v. Gaon Sabha Khamara*, 1955 Alld. N. U. C. 1725; 1955 A. L. J. (H. C.) 205.

chayat any other member, officer or servant of the Gaon Panchayat may enter into or upon any building or land, with or without assistants or workmen, in order to make an inspection or survey or to execute a work which a Gaon Panchayat is authorized by this Act or by rules or bye-laws made thereunder, to make or execute, or which it is necessary for a Gaon Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or bye-laws, to make or execute :

Provided that—

- (a) except when it is in this Act or rules or bye-laws otherwise expressly provided, no such entry shall be made between sunset and sunrise, and
- (b) except when it is in this Act or in rules or bye-laws otherwise expressly provided, no building which is used as a human dwelling shall be so entered except with the consent of the occupier thereof and without giving the said occupier not less than four hours' previous written notice of the intention to make such entry, and
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to remove to some part of the premises where their privacy shall not be disturbed, and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered.

Sec. 106. Suits against Gaon Sabhas, Gaon Panchayats, the officers, or the officers and servants of Nyaya Panchayats.—(1) No suit or other legal proceeding shall be instituted against a Gaon Sabha or Gaon Panchayat [or Bhumi Prabandhak Samiti or against a member or officer or servant thereof or of Nyaya Panchayat]¹ or against any person acting under the direction of any of these bodies or persons for anything done or purporting to have been done in official capacity under this Act, until the expiration of 2 months next after notice in writing has been, in the case of a Gaon Sabha or Gaon Panchayat delivered in or left at the office of the Gaon Panchayat concerned and in the case of a member, officer or servant or any person acting under his direction or the direction of the Gaon Sabha, Gaon Panchayat or Nyaya Panchayat delivered to him or left at his office or

1. The words in brackets have been Substituted by Sch. VIII of U. P. Act XXXIII of 1961.

place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any claimed and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

Commentary

Applicability.—The provision of section 106 would apply to suits directly against Gaon Sabha, Gaon Panchayats or officers and servants of Nyaya Panchayats. It would, therefore, be not necessary where the Gaon Sabha was required to be impleaded under section 176 (2) of the U. P. Zamindari Abolition Act to serve any notice and wait for 2 months before filing the suit.¹

Sec. 107. Protection to Gaon Panchayat and Nyaya Panchayat.—(1) The provisions of the Judicial Officer's Protection Act, 1850, shall apply to the members of Nyaya Panchayat.

(2) No civil case or prosecution shall be entertained in any court against a Gaon Panchayat or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or bye-laws made thereunder.

Sec. 107-A. Validity of proceedings.—Except as otherwise provided under this Act, a Gaon Sabha, Gaon Panchayat or any committee thereof, shall have power to act, notwithstanding any vacancy in the membership or defect or irregularity in the enrolment of a member thereof, and any proceedings in any Gaon Sabha, Panchayat or committee shall be valid notwithstanding that there was any defect or irregularity in the enrolment of any member or that some person, who was not entitled so to do, participated or otherwise took part in the proceedings, provided, however, that at least two-thirds of the persons present at the time of the act being done were not disqualified to be members.

Sec. 108. Powers and duties of police in respect of offence and assistance to Panchayats.—Every police officer shall give immediate information to the Gaon Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or bye-law made thereunder and shall assist all

1. *Makhdoom v. Bindesari*, 1960 R. D. 300.

members and servants of the Gaon Panchayat and Nyaya Panchayat in the exercise of their lawful authority.

Sec 109. If any dispute arises as to the jurisdiction of a Nyaya Panchayat or between two or more Gaon Panchayats or between a Gaon Panchayat and the town area or a municipal board or a district board it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any court of law.

Sec. 109-A. *Mode of proof of Gaon Sabha record.*—A copy of any entry in a register in the possession of a Gaon Sabha or of any document made or executed by an officer thereof shall, if duly certified by the Pradhan of the Gaon Sabha or other person, authorized by the Pradhan in writing in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case, where and to the same extent as the original entry or document would, if produced, have been admissible to prove such matters.

CHAPTER IX

Rules, Bye-laws and Repeals

Sec. 110. *Power of State Government to make rules.*—(1) The State Government may, subject to the condition of previous publication by notification in the official *Gazette*, make rules consistent with this Act to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the State Government by this Act ;
- (ii) the establishment of Gaon Sabha or Nyaya Panchayat or the constituted Gaon Panchayat ;
- (ii-a) qualifications for the Up-Pradhan ;
- (ii-b) distribution of assets and liabilities of Gaon Panchayats and Nyaya Panchayats consequent upon a change in their circles ;
- (ii-c) presentation and disposal of election petitions ;
- (ii-d) taking of oath by Pradhan, Up-Pradhan, members of Gaon Panchayats, Panch, Sahayak Sarpanch and Sarpanch ;

- (ii-e) filing of resignation by Pradhan, Up-Pradhan, members of Gaon Panchayat, Panch, Sahayak Sarpanch and Sarpanch ;
- (ii-f) holding of general elections and bye-elections ;
- (ii-g) nomination of persons as members of Gaon Panchayat and Pradhans and the appointment of Panch of Nyaya Panchayat ;
- (ii-h) grant of leave for absence to office bearers of Gaon Panchayat and Nyaya Panchayat ; and
- (iii) the carrying out of the duties of the Pradhan or the Up-Pradhan in their absence for any cause ;
- (iii) the time and place of the meetings of Gaon Sabha, Gaon Panchayat and Nyaya Panchayats the manner of convening meetings and giving notice thereof ;
- (iv) the conduct of proceedings including the asking of questions by members at meetings and the adjournment of meetings and also minute books of meetings ;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees ;
- (vi) the suspension and removal of office-bearers ;
- (vii) the records and registers that shall be maintained by Gaon Panchayats and Nyaya Panchayats and the form in which they are to be ;
- (vii-a) periodical revision and amendment of Gaon Sabha and Gaon Panchayat registers ;
- (viii) the action to be taken on the occurrence of vacancy in the executive committee, joint committee or any other committee and Nyaya Panchayats ;
- (ix) the authority by which disputes in relation to appointments to executive committee, joint committee, another committee or Nyaya Panchayat may be decided and the procedure to be followed therein ;
- (x) the amount and nature of security to be furnished by a servant of the Gaon Panchayat or Nyaya Panchayat from whom it is deemed expedient to require security ;

- (xi) appointment, qualifications, supervisions, dismissal, discharge, removal or other punishment and other matters relating to the conditions of service, leave, transfer, pay and privileges of the servants of the Gaon Panchayat and the Nyaya Panchayat and their rights of appeal;
- (xii) management and regulation of provident fund for the servants of Gaon Panchayats and Nyaya Panchayat if the system of provident fund is adopted by any Gaon Panchayat;
- (xiii) the establishment, maintenance and management of primary schools and the construction and repair of buildings thereof;
- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a joint committee, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the local area of a Gaon Sabha;
- (xv) the discovery, removal and destruction of water hyacinth, grass, weed or other wild growth on any land, premises or water, the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;
- (xvi-a) the carrying out of functions and duties of Gaon Panchayat as mentioned in sections 15, 16 and 17;
- (xvii) the framing of annual estimates of income and expenditure and ear-marking of fund for specific purposes;
- (xviii) the returns to be submitted by Gaon Panchayats and Nyaya Panchayats the form in which they are to be, the authorities to which and the time when they shall be submitted;
- (xix) the levy of taxes and licence fees, the authority, by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made;

- (xix-a) collection of State and other dues by Gaon Panchayats and remuneration to be paid therefor;
- (xx) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gaon Panchayats in the recovery of taxes and dues;
- (xxi) the method of account keeping by Gaon Panchayats and Nyaya Panchayats;
- (xxii) the maintenance of public buildings and nazul land;
- (xxiii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Gaon Panchayat;
- (xxiv) powers of auditors, inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence;
- (xxv) the issue, service or execution of summons, notices and other processes of Nyaya Panchayat and issue and service of notices by Gaon Panchayats;
- (xxv-a) issue of commissions for examination of witnesses;
- (xxv-b) institution of cases where a Sarpanch refuses to entertain;
- (xxvi) the transfer by a Nyaya Panchayat of summons and other processes to another Nyaya Panchayat or any court for service or execution;
- (xxvii) the fees to be levied by Nyaya Panchayats for institution of suits and cases for issue of processes for obtaining copies of documents and other matters;
- (xxviii) the court-fees and other fees payable where a Nyaya Panchayat, with the consent of parties, entertains a civil case which is otherwise beyond its jurisdiction;
- (xxix) the procedure for execution of decrees, orders and sentences passed by Nyaya Panchayats;
- (xxx) the allotment by Gaon Panchayats of funds for the performance by Nyaya Panchayats of their duties under this Act and the extent to which fees paid

to Nyaya Panchayats may be appropriated by Gaon Panchayats ;

- (xxxii) the powers that may be exercised by Zila Parishad or any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised ;
- (xxxiii) the procedure to be observed in the making of bye-laws by prescribed authority for Gaon Panchayats or by Gaon Panchayats ;
- (xxxiv) the prescribing and printing of forms and registers generally relating to any matter under this Act or rules made thereunder ;
- (xxxv) the submission for approval of plans, designs, specifications and estimates ;
- (xxxvi) the duties, powers and functions of village volunteer force ;
- (xxxvii) the submission of annual reports by Gaon Panchayats, Nyaya Panchayats and their review ;
- (xxxviii) persons, other than members of Gaon Panchayats, who may be present in an advisory capacity in meetings of Gaon Panchayats ;
- (xxxix) channel of correspondence between a Gaon Panchayat and other authorities ;
- (xl) disposal of assets and liabilities of Gaon Sabhas or Nyaya Panchayats on its abolition ;
- (xli) the action to be taken on the inclusion of the whole or part of the local area of any Gaon Panchayat in any municipality, notified area, town area or cantonment, and the manner in which the assets and liabilities of the Gaon Panchayat may be disputed of in such circumstances ;
- (xlii) the conditions subject to which sums due to a Gaon Panchayat may be written off as irrecoverable, and the conditions subject to which the whole or any part of a fee may be remitted ; and generally for the guidance of Gaon Panchayats, Nyaya Panchayats, joint committees, other committees, servants of the Government and other authorities in any matter connected with the carrying out of the provisions of this Act ;
- (xliii) the regulation of the election of the members of the Gaon Panchayat in order to secure the adequate representation of the Scheduled Castes,

- (xlvi) assistance to be given by the Gaon Panchayat Government servants on any matter affecting the general administration;
- (xlv) powers and duties of Sahayak Sarpanch and Up Pradhan;
- (xlv) borrowing and lending of money by Gaon Panchayats
- (xlv) the matters which are to be and may be prescribed and
- (xlvii) any matter in respect of which power is conferred in section 111 on the prescribed authority to frame bye-law for a Gaon Panchayat.

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid.

Sec. 111. Power of Zila Parishad to frame bye-laws.—The prescribed authority may, and when required by the State Government, shall make bye-laws for a Gaon Panchayat within its jurisdictions consistent with the Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the jurisdiction of Gaon Panchayat and for furtherance of administration of Gaon Panchayats under this Act.

Commentary

Scope.—The Panchayat Raj Act does not provide for control or regulation of the nature mentioned in section 91 (q) of the Zila Parishad Act and the power of the District Boards under section 174 of that Act and to prescribe fees in that behalf has not been taken away by section 111 of the Panchayat Raj Act.¹

Sec. 112. Power of Gaon Panchayats to frame bye-laws.—(1) Subject to the provisions of this Act and the rules made thereunder and the bye-laws, if any, made by the prescribed authority, a Gaon Panchayat may frame bye-laws—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;

1. *District Board, Ghazipur v. L. N. Sharma*, 1961 R. D. 141.

- (c) to prevent damage to public streets and Gaon Panchayat property;
- (d) to regulate sanitation, conservancy and drainage in the area of Gaon Panchayats;
- (e) to prohibit or regulate the use of public streets or other public places by shop-keepers or other individuals or collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cesspools, pasture land, playground, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used;
- (g) to regulate any other duties or functions of the Gaon Sabha as may be directed by the prescribed authority.

(2) The draft of bye-laws framed by Gaon Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Gaon Panchayat and the bye-laws shall then be submitted together with the objections, if any, received and the decisions taken thereon to the prescribed authority. The bye-laws as sanctioned by the prescribed authority shall come into force after they have been published in the prescribed manner :

Provided that the State Government at any time rescind or modify any bye-laws so approved.

Sec. 113. Repeal and transitory provisions.—(1) On and from the date on which a Gaon Sabha is established in any area under this Act—

- (a) the United Provinces Village Panchayat Act, 1920, shall be deemed to be repealed in respect of such area and the Panchayat, if, any, established thereunder in such area shall be abolished, its fund and other properties shall vest in, and its liabilities shall be transferred to such Gaon Sabha, and criminal cases, and civil cases if any, pending on such date before that Panchayat shall be transferred to a Nyaya Panchayat, if any, established in that area, on such date before that Panchayat shall be transferred to criminal or civil court, as the case may be, of lower grade having jurisdiction therein;
- (b) the United Provinces Village Courts Act, 1892, shall be deemed to be repealed in respect of such area and all courts established thereunder shall be

abolished and all civil cases and other revenue cases pending on such date in any village court in such local area shall be transferred to a Nyaya Panchayat if any, established in that local area, or where no such Nyaya Panchayat exists to the civil court of lowest grade having jurisdiction therein, and

(c) the United Provinces Village Sanitation Act, 1892, shall be deemed to be repealed in respect of such area :

Provided that wherein the area of any Panchayat established under the United Provinces Village Panchayat Act, 1920, more than one Gaon Sabha have been established, the fund, properties and liabilities of such Panchayat shall be distributed among such Gaon Sabhas in accordance with the prescribed rules.

Sec. 114. Casual vacancies to be left unfilled in certain cases.—Where a vacancy occurs on any body constituted under this Act by reason of the death, resignation, removal or avoidance of the election of a member or other office bearer and the term of office of that member or other office bearer would in the ordinary course of events have determined within six months of the occurrence of the vacancy, the prescribed authority may direct that the vacancy be left unfilled until the next general election under this Act.

SCHEDULE

(See section 68)

Description of suits	Period of limitation	Time from which period begins to run
1. For money due on a contract.	3 years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Do.	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring a movable property.	Do.	When the movable property was wrongfully taken or when injury was done to it.
4. For damages caused by cattle trespass.	6 months	When the damage was caused by the cattle trespass.

APPENDIX

(NOTE.—The following are the powers, duties and functions which will be exercised by the Zila Parishad, and the Kshettra Samiti under the U. P. Panchayat Raj Act.)

SCHEDULE III—(See section 35)*

Powers, duties, and functions under the United Provinces Panchayat Raj Act, 1947, which shall be exercised or performed by the Zila Parishad or the Kshettra Samiti, as is specified in the third column :

Section of the United Pro- vinces Pan- chayat Raj Act, 1947.	Power, duty or function	Authority by which to be exercised or Performed.
9	... To cause a register of members of Gaon Sabha to be prepared.	Kshettra Samiti.
11	... To require a meeting of Gaon Sabha to be called and to call a meeting.	Kshettra Samiti.
12-E	... To tender oath of office to Pradhan of Goan Panchayat, and Panches, Sarpanches and Sahayak Sarpanches of Nyaya Panchayats. ... To entertain the resignations of Pradhans, up-Pradhans and members of Gaon Panchayats. ... To sanction proposals of Goan Panchayats for undertaking small irrigation projects. ... (1) To direct a group of neighbouring Gaon Sabhas within the Khand to combine to establish and maintain a primary school or Ayurvedic, Homoeopathic or Unani Hospital or dispensary. ... (2) To direct a group of neighbouring inter-Khand Gaon Sabhas to combine to establish and maintain a primary school or Ayurvedic, Homoeopathic or Unani Hospital or dispensary.	Kshettra Samiti. Zila Parishad. Kshettra Samiti. Kshettra Samiti. Zila Parishad.
25(1)	... To approve the creation of a post by a Panchayat not provided for in its budget.	Kshettra Samiti.
25(4)	... To effect transfers of Panchayat servants within the Khand. ... (2) To effect transfers of Panchayat servants outside the Khand.	Kshettra Samiti. Zila Parishad.
25(5)	... To sanction appointments of servants under the Nyaya Panchayat and to exercise powers of transfer, punishment, discharge and dismissal in respect of them.	Kshettra Samiti.
25-A	... To appoint Panchayat secretaries and to exercise administrative control over them in respect of promotion, dismissal and removal. ... (2) To exercise administrative control over Panchayat Secretaries in respect of leave, transfer and other disciplinary action which does not include appointment, promotion, dismissal and removal.	Zila Parishad. Kshettra Samiti.

*Published in the U. P. Gazette extra ordinary dated Dec. 3, 1961.

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27	...	To sanction filing of a civil suit against a member of Gaon Panchayat joint committee or other committee for loss, waste or misapplication of any money or property of Gaon Panchayat.	Zila Parishad.
30(2)	...	(1) To settle disputes between the constituent units of a joint committee situated within the Khand. (2) To settle disputes between the inter Khand constituent units of a joint committee.	Kshettra Samiti. Zila Parishad.
36	...	To sanction borrowing of money by any Gaon Sabha from another Gaon Sabha.	Kshettra Samiti.
37-A(2)	...	To direct the Gaon Sabha to imposes a tax or rate on any person wrongly excluded.	Kshettra Samiti.
37-B	...	To authorize recovery of the arrears of Panchayat taxes as arrears of land revenue in event of the Gaon Sabha's failure to pass a resolution within three months for the realization of its dues as arreas of land revenue.	Kshettra Samiti.
37-C(2)	...	Under circumstances prescribed by Government to remit the whole or part of any tax or rate.	Zila Parishad.
37-C(3)	...	To approve the decision of the Gaon Sabha to remit the whole or part of any tax or rate.	Kshettra Samiti.
39(1)	...	To determine the proportion in which the expenses of a Nyaya Panchayat are to be charged to the Gaon Funds of the Gaon Sabha comprised in the circle.	Kshettra Samiti.
41(3)	...	To approve the annual estimates (budget) of Gaon Sabha and approve the incurring of expenditure within the budgeted allotment by the Gaon Panchayat on a matter already approved in the annual estimates.	Kshettra Samiti.
41(4)	...	To prepare the budget of the Gaon Sabha in the event of the failure of the Gaon Sabha to pass and send it to the Gaon Sabha for being passed.	Kshettra Samiti.
41(5)	...	To make any amendments, modification or changes in a Gaon Sabha budget at any time.	Kshettra Samiti.
98	...	To prohibit execution or further executions of any resolution or order passed or made by a Gaon Sabha, Gaon Panchayat, or a joint committee or any officer or servant thereof, if in his (prescribed authority's) opinion, such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety or riot or affray.	Zila Parshad
	...	To sanction the penalty clause or Panchayat bye-laws.	Zila Parishad.
112(1)(g)	...	To direct any other duties or functions to be performed by the Gaon Sabha.	Kshettra Samiti.
114	...	To direct for leaving a vacancy on any body, constituted under the Panchayat Raj Act, to be left unfiled if the vacancy is not to last for more than six months.	Zila Parishad.

RULES

MADE UNDER THE
U. P. PANCHAYAT RAJ ACT, 1947

CHAPTER I

Preamble.—In exercise of the powers conferred by section 110 of the U. P. Panchayat Raj Act, 1947, the State Government is pleased to make the following rules :

1. **Short title and commencement.**—These rules shall be called "Panchayat Raj Rules".
2. **Definitions.**—In these rules, unless there is anything repugnant in the subject of context :—
 - (a) "Act" means the U. P. Panchayat Raj Act, 1947;
 - (aa) "Annual value" means the gross annual rent for which any house (exclusive of furniture and machinery therein if any) or land is actually let or where the house or land is not let, the gross annual rent for which it may reasonably be expected to be let;
 - (b) "Banker" includes Post Office Savings Bank, a Co-operative Bank and local banker ;
 - (c) "Collector" and "District Magistrate" for the purposes of these rules include any officer nominated by the Collector or the District Magistrate, as the case may be, to perform any functions under these rules on his behalf ;
 - (d) "Government" means Government of Uttar Pradesh ;
 - (dd) "House" includes an enclosure used for keeping carts or cattle, hut, shop, warehouse or other roofed structure for whatsoever purpose and of whatsoever material constructed but does not include a tent or other such movable temporary shelter.
 - (e) "Local Authority" and "Local Body" include District Board, Municipal Board, Municipal Corporation, Notified Area Committee and Town Area Committee;
 - (ee) "Form" means a Form appended at the end of these rules ;
 - (f) [Deleted.]
 - (g) "Population" unless otherwise directed by the State Government for special reasons in any particular case, means population as determined at the latest census under the provisions of the Indian Census Act, 1950.
 - (h) [Deleted]. (i) [Deleted]. (j) [Deleted].

CHAPTER I-A

Sabhas, Nyaya Panchayats, Gaon Panchayats and Constituencies.

3. **Establishment of Sabhas.**—(1) As soon as may be after the publication of the notification under section 3 of the Act, a list of *Sabhas* constituted and established thereunder in each Tahsil shall be published at the Tahsil headquarters and at the office of District Panchayat Officer.

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(2) A copy of the notification establishing a *Sabha* shall also be published at the office of the Panchayat Secretary.

3-A. Changes in the jurisdiction of Sabhas.—(1) A *Sabha* may, after a resolution to that effect has been passed, make suggestions for changes in the jurisdiction of the *Sabha*. A copy of the resolution shall be sent to the District Panchayat Officer who shall forward it to the Director of Panchayats for necessary action.

(2) Any fifty or more residents of a village may at any time make suggestions for changes in the jurisdiction of the *Sabha* and send a representation to that effect to the District Panchayat Officer who shall forward it to the Director of Panchayats.

(3) The provisions of rule 3 shall *mutatis mutandis* apply to the publication of the notification issued under section 3 or 8 of the Act regarding changes in the jurisdiction of a *Sabha*.

3-AA. Where in the area of a *Gaon Sabha* established under the U. P. Panchayat Raj Act, 1947, more than one *Gaon Sabha* are established or a part of the area of a *Gaon Sabha* established under that Act is transferred to another *Gaon Sabha*, the funds, properties and liabilities of the old *Gaon Sabha* shall be divided among the newly established *Gaon Sabha* or between the *Gaon Sabha* from which area has been transferred and the *Gaon Sabha* to which that area has been transferred, by the prescribed authority in the following manner:

- (1) The funds available with the old *Gaon Sabha* shall be divided among the newly established *Gaon Sabha* or between the *Gaon Sabha* from which area has been transferred and the *Gaon Sabha* to which that area has been transferred on the basis of population.
- (2) The immovable property shall belong to the *Gaon Sabha* in which the area on which it exists falls and its value shall not be taken into account in dividing cash money.
- (3) The book value of movable property such as Darries, Radios and Furnitures, etc. shall be taken into consideration at the time of division of funds, property and liabilities and it shall be added to the cash balance and divided accordingly on the basis of the population.
- (4) The prescribed authority shall prepare in accordance with clauses (1), (2) and (3) above, a list of distribution of the available funds and properties and shall cause the list to be published within the area of the *Gaon Sabhas* concerned by affixation at their notice-boards and in such other manner as it thinks fit.
- (5) The Pradhan or any member of the *Gaon Sabha* concerned may file objections against the distribution list to the prescribed authority within three months from the date of publication of the list under clause (4) and the prescribed authority shall decide the objections after giving an opportunity to the Pradhans of the *Gaon Sabhas* concerned to be heard.
- (6) An appeal may be filed by the Pradhan of any of the *Gaon Sabhas* concerned against the decision of the prescribed authority to the District Magistrate within fifteen days of the date on which the order of the prescribed authority is communicated to the Pradhans of the *Gaon Sabhas* concerned, and the order of the District Magistrate made in this respect after giving an opportunity to the Pradhans of their *Gaon Sabhas* to be heard, shall be final.

3-AAA.¹ If the whole of the area of a *Gaon Sabha* is included, in a municipality, cantonment, notified area or town area the *Gaon Sabha* shall cease and its assets and liabilities shall be transferred to the local body in which such area is included.

(2) If a part of such area is so included, the jurisdiction of the *Gaon Sabha* concerned shall be reduced by that part and the division of assets and liabilities of the *Gaon Sabha* shall be made in the following manner:

- (a) The funds, properties and liabilities shall be divided between the *Gaon Sabha* and the local body in which a part of its area has been included on the basis of population.
- (b) The immovable property shall belong to the *Gaon Sabha* or the local body in which the area on which it exists falls, as the case may be, and its value shall not be taken into account in dividing cash money.
- (c) The prescribed authority shall prepare in accordance with clauses (a) and (b) above a list of distribution of the available funds, properties and liabilities and shall cause the list to be published within the area of the *Gaon Sabha* and local body concerned by affixation at their notice-boards and in such other manner as it may think fit.
- (d) The Pradhan or any member of the *Gaon Sabha* or the Chairman or the President or any member of the local body concerned may file objections against the distribution list to the prescribed authority within three months from the date of publication of the list under clause (c) and the prescribed authority shall decide the objections after giving an opportunity to the persons making objections, to be heard.
- (e) An appeal may be filed by the persons making the objections against the decision of the prescribed authority to the District Magistrate within fifteen days of the date on which the order of prescribed authority is communicated to them and the order of the District Magistrate made in this respect after giving an opportunity to the appellants to be heard shall be final.

3-B. Establishment of Nyaya Panchayats.—(1) The District Magistrate shall, subject to such directions as may be issued by the Director of Panchayats, determine—

- (a) The number of circles into which a district shall be divided for purposes of establishing *Nyaya Panchayats*, and
- (b) the area to be included in each circle.

(2) The District Magistrate shall thereafter prepare a list of circle for *Nyaya Panchayats*, in the form to be specified by the Directors of Panchayats.

(3) The list prepared under sub-rule (2) shall be published at the Tahsil head-quarters, at the office of the District Panchayat Officer and at the Office of the Panchayat Secretary.

3-C Alteration in the circle for Nyaya Panchayats.—The District Magistrate may, subject to such direction as may be issued by the Director of Panchayats, re-determine the circles of *Nyaya Panchayats*, and amend the list prepared under rule 3-B accordingly.

1. Inserted by notification No. (82)-(PXXXIII-90(47)-55 dated July 16, 1957.

tained in this Chapter and the directions issued by the Director of Panchayats, a Register of Members of the *Sabha*.

4-A. Form of the Register.—(1) The Register of Members shall be prepared in form A.

(2) Part I of the register (hereinafter called the family-register) shall contain the names and particulars of all persons family-wise ordinarily residing in each village included in the *Sabha* and Part II (hereinafter called the adult-register) shall contain the names and particulars only of those adults who are entitled to be members of the *Sabha* under section 5 of the Act.

(3) In the family-register ordinarily one page shall be allotted to one family.

(4) In each register there shall be a separate section respectively for families and adults belonging to the Schedule Castes.

4-B. Language.—Each register shall be prepared in Hindi in Deva Nagri script.

4-C. Division of the adult-register constituency-wise.—The Director of Panchayats may, for the purpose of facilitating the preparation of the adult register direct its division into portions pertaining to each constituency.

4-D. General conditions for registration in the Register.—(1) Every person who has been ordinarily resident within the area of the *Sabha* shall be entitled to be registered in the family-register.

(2) A person registered in the family-register who was not less than 21 years of age on the date of establishment of the *Sabha* shall be entitled to be registered in the adult-register.

4-E. Disqualifications for registration in the adult-register.—(1) A person shall be disqualified for registration in the adult-register if he suffers from any of the disqualifications stated in clause (a) or (b) of sub-section (1) of section 5 of the Act on the date of establishment of the *Sabha*.

(2) The name of any person who becomes so disqualified after registration shall, in the manner specified by the Director of Panchayats, be struck off the register in which it is included.

4-F. Publication of the Draft Register.—(1) The Register of Members prepared under rule 4 shall be published at the office of the Panchayat Secretary and in such other manner as the Director of Panchayats may specify.

(2) The Register so published shall remain available for public inspection for a period of five days from the date of such publication.

4-G. Notice regarding publication.—The Secretary of the *Sabha* shall announce the fact of the publication of the Register of Members by beat of drum and shall fix a date not earlier than five days from the date of such announcement on which claim or objection, if any, shall be presented to him at the office of the Panchayat Secretary.

4-H. Claims and objections.—(1) A claim of objection shall be addressed to the Panchayat Inspector and shall be made in the form, if any, as may be specified by the Director of Panchayats.

(2) It shall be presented in duplicate:

Provided that a person may file any number of claims or objections including those on behalf of others by one petition.

(3) The Secretary of the *Sabha* shall, immediately after a claim or objection has been filed, deliver one copy thereof signed by him in token of its receipt, to the person filing the same and shall mention thereon the serial number of the claim or objection and the date, place and time fixed for hearing of the claim or objection.

(4) The date fixed for hearing shall not be earlier than five days from the date of filing of claim or objection.

(5) Where the objection relates to the removal of any person's name from the Register of Members for any reason other than death, the Secretary of the *Sabha* shall inform such person also of the date, time and place fixed for hearing of the said objection.

4-I. Publication of claims and objections.—The Secretary of the *Sabha* shall prepare a list of claims and a list of objections in such form as may be specified by the Director of Panchayats. The lists so prepared along with the claims and objections shall be published at the office of the Panchayat Secretary and shall be available for inspection for three days during such hours as may be specified by the Director of Panchayats. Thereafter they shall be forwarded to the Panchayat Inspector.

4-J. Disposal of claims and objections.—(1) The Panchayat Inspector shall examine each claim and objection and if it raises any question of the nature referred to in section 6-A of the Act, he shall refer the claim or objection to the Tahsildar, who shall, for the purposes of the said section, be the prescribed authority.

(2) The Panchayat Inspector shall inform the parties of the date, time and place fixed for hearing of the claim or objection before the Tahsildar.

(3) Where the claim or objection does not raise any question of the nature referred to in section 6-A, the Panchayat Inspector shall hold a summary inquiry into the claim or objection and shall record his decision.

(4) The Tahsildar may, within seven days of the order passed by the Panchayat Inspector under sub-rule (3), of his own motion or on application made to him in this behalf, call for the records of the proceedings relating to such claim or objection and may pass thereon such orders as he thinks fit.

(5) The decision of the Tahsildar under sub-rule (4) shall be final and a copy thereof shall be sent to the Panchayat Inspector and to the Secretary of the *Sabha*.

5. Final publication of the register.—(1) On receipt of a copy of the order under sub-rule (5) of rule 4-J the Secretary of the *Sabha* shall, if necessary cause the Register of Members to be amended accordingly in the manner specified by the Director of Elections.

(2) The Register of Members as amended in sub-rule (1) shall be republished in the manner specified in rule 4-F. The Register so republished shall be final.

6. Disposal of references.—(1) Where a claim or objection is referred to the Tahsildar under sub-rule (1) of rule 4-J, the Tahsildar shall on the date, time and place fixed therefor, hold a summary enquiry into the claim or objection referred to him and shall record his decision.

(2) Any person aggrieved by the order of the Tahsildar under sub-rule (1) may within 15 days of the date of such order prefer an appeal to the Sub-Divisional Officer.

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(3) The Sub-Divisional Officer shall after notice to the parties and after hearing such of them as desired to be heard dispose of the appeal.

(4) A copy of the order passed by the Tahsildar under sub-rule (1) as modified in appeal, if any, under sub-rule (3), shall be forwarded to the Secretary of the *Sabha* and to the Panchayat Inspector.

7. Action on the orders passed under rule 6.—On the receipt of a copy of the order under sub-rule (4) of rule 6 the Secretary of the *Sabha* shall if necessary, strike off the name of the person concerned from the Register of Members and shall send an intimation thereof to the person concerned.

8. Quarterly entries in the family-register.—(1) At the beginning of each quarter commencing from April in each year the Secretary of the *Sabha* shall make necessary changes in the family-register consequent on births, and deaths, if any, occurring in the previous quarter in each family.

(2) Such changes shall be laid before the next meeting of the Gaon Panchayat for information.

9. Annual Revision of Register of Members.—(1) The Register of Members shall be revised every year in accordance with the directions issued by the Director of Panchayats.

(2) The provisions of rules 4 to 7 shall *mutatis mutandis* apply in relation to the annual revision as they apply in relation to the preparation of the Register of Members.

Provided that the first day of March of the year in which the Register is revised shall be deemed to be the date on which the members should possess the qualification for registration in the Register.

10. Special revision of the Register.—(1) Notwithstanding anything contained in the foregoing rules, the Director of Panchayats may, at any time, for reasons to be recorded in writing direct the revision of Register of Members or a part thereof.

(2) The provisions of rules 4 to 7 shall *mutatis mutandis* apply in relation to the special revision under this rule as they apply in relation to the preparation of the Register :

Provided that the date on which the members should possess the qualifications for registration in the Register shall be such as may be specified by the Director of Panchayats.

10-A. The Panchayat Inspector may, subject to the direction issued by the Director of Panchayats order for the correction of any existing entry in the Register of Members and the Secretary of *Sabha* shall then correct the Register accordingly.

11. Inclusion of names in the Register.—(1) Any person whose name is not included in the Register of Members may, in the manner and the form specified by the Director of Panchayats apply to the Panchayat Inspector for the inclusion of his name therein.

(2) The Panchayat Inspector shall, if satisfied, after such enquiry as he thinks fit, that the applicant is entitled to be registered in the register, direct, in the manner and subject to the conditions specified by the Director of Panchayats, that the name of the applicant be included therein and the Secretary of the *Sabha* shall include the name accordingly.

12. Custody and preservation of the Register.—(1) The Secretary

of the *Sabha* shall be responsible for the safe custody of the Register of Members.

(2) Every person shall have a right to inspect the Register and to get attested copy of any entry or of extract therefrom in such manner and on payment of such fees, if any, as may be specified by the Director of Panchayats.

CHAPTER I-C—Disqualifications.

13. The date from which the period of five years for removal of disqualification under clauses (d), (g), (h), (i), (j), (k), and (l) of section 5-A of the Act shall be counted, will be as follows :

Clause (d)—From the date of dismissal.

Clause (g)—From the date on which the insolvent is discharged.

Clause (h)—(i) In the case of sentence of imprisonment, from the date of expiry of the period of sentence.

(ii) In the case of sentence of fine, from the date of payment or recovery thereof.

(iii) In the case of sentence of both imprisonment and fine, from the date of expiry of sentence or the payment or recovery of fine whichever is later.

Clause (i)—From the date of expiry of the period for which the security has been taken.

Clause (j)—From the date on which the period of sentence expires.

Clause (k)—(i) In the case of a sentence of imprisonment from the date of expiry of the sentence.

(ii) In the case of a sentence of fine, from the date of payment or recovery thereof.

(iii) In the case of sentence of both imprisonment and fine, from the date of expiry of sentence or the payment or recovery of fine, whichever is later.

Clause (l)—(i) In the case of a sentence of imprisonment, from the date of expiry of the sentence.

(ii) In the case of a sentence of fine, from the date of payment or recovery thereof.

(iii) In the case of a sentence of both imprisonment and fine, from the date of expiry of the sentence or the payment or recovery of fine, whichever is later.

13-A. Removal of disqualifications under section 5-A.—(1) An application for removal of the disqualification under clauses (d), (g), (h), (i), (j), (k), or (l) of section 5-A of the Act, shall be in such form as the Director of Panchayats may specify from time to time and shall show the ground upon which the applicant claims the removal of the disqualification.

(2) The application shall be presented to the Sub-divisional Officer of the Sub-division concerned.

(3) The Sub-Divisional Officer may, after such enquiry as he deems fit, either accept the application and remove the disqualification or reject the application.

(4) A copy of the order passed removing the disqualification shall be sent to the Secretary of the *Sabha* and to the Panchayat Inspector.

14. References under section 6-A pertaining to disqualifications.—

(1) Where any question as is referred to in section 6-A of the Act is raised otherwise than in a claim or objection, it shall be referred to the Tahsildar by the Officer or authority before whom such question arises for consideration.

(2) On the receipt of a reference under sub-rule (1) the Tahsildar shall fix the date, time and place for its hearing and shall give notice to the parties concerned.

(3) The Tahsildar shall, after hearing the parties and after such other enquiries as he deems fit, give his decision on the question referred to him.

(4) Any person aggrieved by the order of the Tahsildar may, within fifteen days of the date of such order, prefer an appeal to the Sub-Divisional Officer.

(5) The Sub-Divisional Officer shall after notice to the parties and after hearing such of them as desired to be heard, dispose of the appeal.

(6) A copy of the final order passed on the question referred to the Tahsildar as modified in appeal, if any, shall also be forwarded to the Secretary of the *Sabha* and to the Panchayat Inspector.

(7) On the receipt of a copy of the order under sub-rule (6) the Secretary of the *Sabha* shall, if necessary, strike off the name of the person concerned from the adult-register and shall send intimation thereof to the person concerned.

15. Disqualification on account of non-payment of tax, etc.—(1) A person shall be disqualified under clause (e) of section 5-A of the Act for being chosen, nominated or appointed to, and for holding any office in the *Sabha* or the *Gaon Panchayat*, or the *Nyaya Panchayat*, if he is in arrears of any tax, fee or rate due by him to the *Sabha* on the 31st day of March in the year immediately preceding the year in which an election was held.

*[Provided that in the case of general election held during the year 1960-61 the date aforesaid shall be 31st day of March, 1960].

(2) The Secretary of the *Sabha* shall in the manner and form specified by the Director of Panchayats, prepare a list of all such persons, who according to the records of the *Sabha* are in arrears of any tax, fee or rate as aforesaid.

(3) The list shall be published at the office of the *Sabha* and an announcement to this effect will be made by beat of drum in the area of the *Sabha*.

(4) The name of the person who has paid, whether under protest or otherwise, all the arrears shown against his name in the list shall be struck off the list. A receipt issued by the Pradhan or Secretary in payment of any such amount shall be conclusive proof of the fact that the person is not in arrears of the tax, fee or rate, as the case may be.

COMMENTS

Disqualification.—The correct interpretation of the rule would be that if all the taxes, fee or rate due upto 31st of March have not been paid, the person would be disqualified upto the date the taxes etc or not paid. The disqualification under clause (e) of section 5-A would, therefore, cease to exist as soon as the arrears upto the preceding 31st of March have been paid.**

CHAPTER I-D***—Election of Members of Gaon Panchayats

16. (1) In this chapter unless there is anything repugnant in the subject or context—

*Sub. by Notification No. 4494-P-XXXIII—155(7)—59 dated October 26, 1960.

**Munna Singh V. Narayan Singh 1460 R. D. 64

*** Published vide Notification No. 4732—P/XXXIII, 1960 dated Nov. 28, 1960, Published in the U. P. Gazette extraordinary dated Nov. 28, 1960.

Interpretation.—(a) “constituency” means a constituency provided under rule 3-F;

(b) “contesting candidate” means a candidate whose name is included in the list of contesting candidates prepared under rule 18-D;

(c) “election” means an election to fill a seat in a Gaon Panchayat;

(d) “election return” means an election return in a form specified by the Nirvachan Nideshak (Panchayat);

(e) “elector” means a member of Gaon Sabha entitled to vote;

(f) “Panchayat Inspector” includes an Assistant Development Officer (Panchayat);

(g) “polling return” means a polling return in a form specified by the Nirvachan Nideshak (Panchayat);

(h) “seat” means a seat allotted to a constituency for election to a Gaon Panchayat; and

(i) “specified” means specified by the Nirvachan Nideshak (Panchayat).

(2) All orders, notices, lists and forms issued or prepared by any officer under this chapter shall be in the Hindi language in Devanagri script.

¹[(3) The U. P. General Clauses Act, 1904, shall apply for the interpretation of the rules in this chapter as it applies for the interpretation of an Act of the Legislature of Uttar Pradesh].

16-A. District Magistrate to supervise the conduct of elections in the District.—Subject to the supervision and control of the Nirvachan Nideshak (Panchayat), the District Magistrate shall supervise the conduct of elections in the District.

16-B. Nirvachan Adhikari.—(1) For each Sabha there shall be a Nirvachan Adhikari (Returning Officer) who shall be such officer of Government as the District Magistrate may designate or nominate:

Provided that nothing in this rule shall prevent the District Magistrate from designating or nominating the same person to be the Nirvachan Adhikari for more than one Sabha.

(2) The Nirvachan Adhikari shall perform the function required to be performed under this chapter and it shall be his general duty at any election to do such acts and things as may be necessary for effectually conducting the election in the manner provided by the Act, the rules and the directions issued by the Nirvachan Nideshak (Panchayat).

(3) Without prejudice to the generality of the provisions of sub-rule (2) the Nirvachan Nideshak (Panchayat) may, if he so considers expedient, by order, direct that such of the powers, duties and functions of the Nirvachan Adhikari under these rules as may be specified by him in the order shall be exercised or discharged by the Matdan Adhyaksh at the polling place, subject to such restrictions and conditions as may be specified in the order.

16-C. Sahayak Nirvachan Adhikari.—(1) The District Magistrate may appoint one or more Sahayak Nirvachan Adhikaris to assist any Nirvachan Adhikari in the performance of his functions.

(2) Every Sahayak Nirvachan Adhikari shall, subject to the control of Nirvachan Adhikari, be competent to perform all or any of the functions of the Nirvachan Adhikari.

1. Added by Notification No. 150 P/XXXIII—61 dated January 9, 1961. Published in the U. P. Gazette extraordinary dated January 9, 1961.

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(3) References in this chapter to the Nirvachan Adhikari shall, unless the context otherwise requires, be deemed to include a Sahayak Nirvachan Adhikari performing any function which he is authorized to perform under this rule.

16-D. Polling Places.—The Nirvachan Adhikari shall with the previous approval of the District Magistrate specify the polling places for each constituency.

16-E. Matdan Adhyaksh.—(1) The Nirvachan Adhikari shall appoint Matdan Adhyaksh (Presiding Officer) for each polling place and the same person may be appointed Matdan Adhyaksh for more than one polling place.

(2) The Matdan Adhyaksh shall perform the functions required to be performed by him under this chapter and it shall be his general duty to keep order at the polling place and to see that the poll is fairly taken.

(3) If the Matdan Adhyaksh is obliged to absent himself from the polling place his functions shall be performed by such Matdan Adhikari as has been previously authorised by the Nirvachan Adhikari for the purpose.

(4) References in this chapter to the Matdan Adhyaksh shall, unless the context otherwise requires, be deemed to include any person performing any function of the Matdan Adhyaksh which he is authorised to perform under sub-rule (3) or under rule 16-F.

16-F. Matdan Adhikari.—(1) The Nirvachan Adhikari shall appoint for each polling place such Matdan Adhikari (Polling Officer) or Adhikaris as he thinks necessary to assist the Matdan Adhyaksh in the performance of his functions and to do such other things as he is required to do under this chapter.

(2) If a Matdan Adhikari is absent from the polling place, the Matdan Adhyaksh may appoint any person who is present at the polling place, other than a person who has been employed by or on behalf of, or has been otherwise working for a candidate in or about the election, to be the Matdan Adhikari during the absence of the former officer and in case of any such appointment he shall inform the Nirvachan Adhikari accordingly.

16. G. Nirvachan Abhikarta.—(1) A candidate at an election may appoint in writing any person to be his Nirvachan Abhikarta (Election Agent) and notice of such appointment should be given to the Nirvachan Adhikari.

(2) A Nirvachan Abhikarta may perform such functions in connection with the election as are authorized by or under these rules to be performed by a Nirvachan Abhikarta.

16-H Matdan Abhikarta.—(1) A contesting candidate or his Niavachan Abhikarta may appoint such number of agents as may be specified to act as Matdan Abhikartas (Polling Agents) of such candidate at the polling place.

(2) The appointment shall be made by a letter in writing which shall be lodged with the Matdan Adhyaksh before the commencement of the poll.

16-I. Printing and price of nomination papers.—The Nirvachan Nideshak (Panchayat) shall arrange for the printing and supply of nomination papers to the candidates. The price of each nomination paper shall be such not exceeding rupees six as may be fixed by the Nirvachan Nideshak (Panchayat).

17. General election of members.—A general election under section 12 or section 12-G shall be held in accordance with the provisions of this chapter.

17-A. Notice of election and fixing of dates.—(1) Whenever a general election is to be held the District Magistrate shall under directions from the Nirvachan Nideshak (Panchayat), call upon all the constituencies of a Sabha to elect members of the Gaon Panchayat before such date as may be fixed by the Nirvachan Nideshak (Panchayat) :

Provided that nothing in this rule shall prevent the District Magistrate from issuing one notice for all the Sabhas or a group of Sabhas in the district.

(2) The District Magistrate shall subject to such directions as may be issued by the Nirvachan Nideshak (Panchayat), also appoint—

- (a) the date, place and hours for making nominations;
- (b) the date, time and place for scrutiny of nominations ;
- (c) the date, place and hours for preliminary withdrawal of candidature ;
- (d) the date or dates on which, and the hours during which, a poll shall, if necessary, be taken.

(3) The Nirvachan Adhikari shall give public notice of the dates, places and hours appointed under sub-rules (1) and (2) in such manner as may be specified by the District Magistrate.

(4) The Nirvachan Adhikari shall also specify in the notice under sub-rule (3) the polling place fixed under rule 16-D.

18. Presentation of nomination papers.—(1) A member of a Sabha who desires to be nominated as a candidate at an election shall deliver either in person or by his Nirvachan Adhikari on the date and place and during the hours fixed for the purpose under sub-rule (2) of rule 17-A a nomination paper duly completed in the specified form.

(2) Where a candidate seeks election to a seat reserved for the Scheduled Castes, there shall accompany with the nomination paper a declaration subscribed by him stating that he is a member of the Scheduled Castes and specifying the particular caste to which he belongs.

(3) Any nomination paper which is not received before the close of the hour appointed in that behalf on the date appointed for filing nomination papers shall be rejected by the Nirvachan Adhikari.

(4) Nothing in these rules shall prevent any candidate from being nominated by more than one nomination paper for election in the same constituency.

¹[(5) Where no nomination paper is received before the close of the hour fixed in that behalf on the date appointed for filing of nomination papers the Nirvachan Adhikari shall report the fact to the District Magistrate].

18-A. Notice of nominations.—The Nirvachan Adhikari shall, on receiving the nomination paper under rule 18, inform the person delivering the same of the date, time and place appointed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the dates on which and the hour at which the nomination paper has been delivered to him. He shall also prepare a list of nominations received by him and announce the names of persons so nominated.

1. Added by Notification No. 150-P/XXXIII-61 dated January 9, 1961. Published in the U. P. Gazette extraordinary dated January 9, 1961.

18-B. Scrutiny of nominations.—(1) On the date and at the time and place appointed for the nomination papers, not already rejected under sub-rule (3) of rule 18, in the presence of candidates and their Nirvachan Abhikartas, if any, who may be present after giving them reasonable facilities for examining the nomination papers.

(2) The Nirvachan Adhikari may reject any nomination paper on any one or more of the following grounds—

- (a) that the candidate is not qualified under the Act to be chosen to fill the seat ;
- (b) that the candidate is disqualified for being chosen to fill the seat under section 5-A of the Act ; or
- (c) that there has been failure to comply with any of the provisions of rule 18.

(3) The Nirvachan Adhikari shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(4) At the end of the scrutiny the Nirvachan Adhikari shall announce the names of candidates whose nominations, he has accepted and shall prepare a list showing the names in Hindi alphabetical order with particulars as given in their nomination papers.

**[(5) Where all nomination papers have been rejected the Nirvachan Adhikari shall report the fact to the District Magistrate].

18-C. Withdrawal of candidature.—Any candidate may withdraw his candidature by a notice in writing which shall be signed by him and delivered by him personally or through his Nirvachan Abhikarta to the Nirvachan Adhikari on the date during the hours appointed for preliminary withdrawal under rule 17-A. Notice once given cannot be withdrawn and shall be final.

18-D. List of contesting candidates.—(1) The Nirvachan Adhikari shall immediately after the expiry of the date for preliminary withdrawal appointed under rule 17-A prepare a list of contesting candidates in the specified form.

(2) The list of contesting candidates shall contain the names in alphabetical order of the contesting candidates as given in their nomination papers. The alphabetical order shall be determined with reference to the names proper of candidates.

18-E. Uncontested elections.—(1) Where on preparing the list under rule 18-D the Nirvachan Adhikari finds that the number of contesting candidates therein does not exceed the number of seats and there are no seats reserved for the Scheduled Castes he shall forthwith declare all such candidates as duly elected.

(2) If out of the seats to be filled one or more are reserved for members of the Scheduled Castes then—

- (a) if the number of contesting candidates who are members of the Scheduled Castes does not exceed the number of reserved seats and the number of other contesting candidates exceeds the number of seats not reserved, the Nirvachan Adhikari shall declare all candidates who are members of the Scheduled Castes to be duly

**Added by Notification No. 150-P./XXXIII-61 dated January 9, 1961.

elected to as many of the reserved seats as there are such candidates;

- (b) if the number of contesting candidates who are members of the Scheduled Castes does not exceed the number of reserved seats and the number of other contesting candidates does not exceed the number of seats not reserved for the Scheduled Castes, the Nirvachan Adhikari shall at first declare all the candidates, who are members of the Scheduled Castes to be duly elected to as many of the reserved seats as there are such candidates and then declare the other candidates to be duly elected to fill as many as the unreserved seats as there are such candidates; and
- (c) if the number of contesting candidates who are members of the Scheduled Castes exceeds the number of reserved seats but the total number of contesting candidates does not exceed the total number of seats, the Nirvachan Adhikari shall first select by lots, to be drawn by him in such manner as he may determine, the candidates to be declared elected to the reserved seats out of the candidates who are members of the Scheduled Castes and declare the candidates so elected to be duly elected to fill the reserved seats and thereafter declare the remaining candidates to be duly elected to fill as many of the unreserved seats as there are contesting candidates left.

(3) The Nirvachan Adhikari shall report to the District Magistrate the names of candidates declared elected under this rule and the nature of seats (whether reserved or unreserved) to which they were elected. He will also report the number of seats of either nature remaining unfilled.

(4) In the case mentioned in clause (a) of sub-rule (2) the Nirvachan Adhikari shall follow the procedure laid down in rule 18F for filling the unreserved seats alone and in the other cases, order that no poll shall be taken.

18-F. Contested elections.—Where on preparing a list of contesting candidates under rule 18-D the Nirvachan Adhikari finds that the number of contesting candidates exceeds the number of seats to be filled he shall forthwith publish the list in such manner as may be specified by the District Magistrate and shall also declare that a poll shall be taken on the date and place and during the hours appointed in that behalf.

18-G. Death before poll.—If a contesting candidate dies before a poll is held and the Nirvachan Adhikari finds that the number of contesting candidates remaining on the list prepared under rule 18-D does not exceed the total number of (seats) or the number of contesting candidates who are members of the Scheduled Castes does not exceed the number of reserved seats, he shall forthwith proceed in accordance with the provisions of rule 18-E, declare the results and also order, as the case may be, that no poll shall be taken or that the poll shall be taken for the unreserved seats alone.

19. Arrangements for polling.—The Nirvachan Adhikari shall provide at each polling place a copy of the Adult Register in respect of the polling area or areas the electors of which are entitled to vote at such polling place as well as other forms and material as may be required for taking the poll at such polling place.

19-A. Admission to the polling place.—The Matdan Adhyaksh shall regulate the admission of electors at the polling place and shall exclude therefrom all other persons except—

- (a) the Matdan Adhikaris ;
- (b) each candidates, his Nirvachan Abhikarta and his Matdan Abhikarta;
- (c) the police officer and other public servants on duty ;
- (d) a child in arms accompanying an elector ;
- (e) the companions of blind or infirm electors who cannot move without help ; and
- (f) such other persons as the Matdan Adhyaksh may from time to time admit for the purpose of assisting him in taking the poll.

19-B. Procedure before commencement of polling.—(1) Immediately after the commencement of the hour fixed for the poll the Matdan Adhyaksh shall declare that the meeting for the poll has started and shall count the electors present at the meeting and shall record their number in the polling return and no other elector shall thereafter be allowed to join the meeting anything contained in clause (d) of sub-rule (2) of rule 17-A, notwithstanding.

(2) Where it is brought to the notice of the Matdan Adhyaksh that any person present at the meeting is not an elector, he shall hold a summary enquiry into the matter. If after the enquiry, the Matdan Adhyaksh is of the opinion that the person concerned is not an elector, he shall require such person to leave the place of the meeting and shall keep a note of the same in the record of the meeting to be prepared under sub-rule (5) of rule 19-C.

(3) The Matdan Adhyaksh shall thereafter enquire if any of the candidates whose names appear in the list of contesting candidates prepared under the rule 18-D, wishes to withdraw his candidature.

(4) If any candidate wishes to withdraw his candidature he shall deliver to the Matdan Adhyaksh a notice of withdrawal in writing duly signed by him.

(5) Where after the withdrawal, the Matdan Adhyaksh finds that the number of contesting candidates remaining on the list referred to in sub-rule (3) does not exceed the total number of seats to be filled or the number of contesting candidates who are members of the Scheduled Castes does not exceed the number of reserved seats, he shall forthwith proceed in accordance with the provisions of rule 18-E and shall declare the result and also order that the poll shall be taken, for the unreserved seats alone or that no poll shall be taken as the case may be.

(6) Where a poll is necessary the Matdan Adhyaksh shall announce the names of contesting candidates and the nature and number of seats to be filled.

(7) The Matdan Adhyaksh shall, if necessary, divide the electors present into convenient groups and place each group in charge of a Matdan Adhikari :

Provided that Matdan Adhyaksh may arrange separate groups for women electors.

19-C. Procedure for voting.—(1) Votes shall be given by show of hand.

1. Subs. by Notification No. 150-P./XXXIII—61 dated January 9, 1961 for the words contesting candidates.

(2) The Matdan Adhyaksh shall call out, one by one, the names of contesting candidates announced under sub-rule (6) of rule 19-B and shall, before the next candidate is called, require the electors present and desirous of giving their votes to the candidate to raise their hands. No elector may raise more than one hand.

(3) The Matdan Adhyaksh shall count the number of hands raised and record the same in the polling return and also announce it. He shall also give an opportunity to the contesting candidates or their Nirvachan Abhikartas or Matdan Abhikartas to count the number of hands so raised.

(4) The polling shall be continued till votes have been taken for all contesting candidates.

(5) The Matdan Adhyaksh shall as soon as may be, after votes have been taken for all the candidates, prepare in the presence of the candidates or their Nirvachan Abhikartas or Matdan Abhikartas who may be present, a record of the voting and of the meeting in the polling return.

(6) The candidate or his Nirvachan Abhikarta or his Matdan Abhikarta shall be allowed an opportunity to sign the polling return. Where the candidate or his Abhikarta disputes the correctness of the number of votes recorded for any candidate in the polling return or any other statement pertaining to the record of the meeting he may make his observations separately in an application to be made to the Matdan Adhyaksh and may make a note to that effect in the polling return.

(7) The Matdan Adhyaksh shall deliver the polling return to the Nirvachan Adhikari as soon as may be practicable.

19-D. Adjournment of poll in emergencies.—(1) If at an election the proceedings at any polling place are interrupted or obstructed by any riot or violence or are likely to be so interrupted or obstructed, or if it is not possible to take the poll on account of any natural calamity, or any other sufficient cause, the Matdan Adhyaksh shall announce an adjournment of the poll to a date to be notified later and votes already taken for any candidate shall be void and where the poll is so adjourned by a Matdan Adhyaksh, he shall forthwith inform the Nirvachan Adhikari concerned.

(2) Whenever a poll is adjourned under sub-rule (1) the Nirvachan Adhikari shall immediately report the circumstances to the District Magistrate and the Nirvachan Adhikari shall, with his previous approval, appoint the day on which a fresh poll shall be held, and fix the polling place at which and the hours during which the poll shall be taken.

(3) Where a poll is adjourned under sub-rule (1) and a fresh poll takes place under sub-rule (2) votes shall be taken afresh for all the contesting candidates and the provisions of this chapter shall apply to every such fresh poll as they apply to the original poll.

19-E. Fresh polling in certain cases.—(1) If at any election any polling return is taken out of the custody of the Nirvachan Adhikari or of any Matdan Adhyaksh, or is in any way tampered with or is either accidentally or intentionally destroyed or lost, the election to which such relate shall be void.

(2) Whenever the polling at any polling place shall become void under sub-rule (1), the Nirvachan Adhikari shall, as soon as may be, after the act or event causing such voidance has come to his knowledge, report the matter to the District Magistrate and shall, with his previous approval appoint a day for

the taking of a fresh poll and fix the polling place at which and the hours during which the poll will be taken and notify the same in such manner as may be specified by the District Magistrate.

(3) In every such case at aforesaid, the Matdan Adhyaksh shall take a fresh poll and the provisions of this chapter shall apply to every such fresh poll as they apply to the original poll.

19-F. Election Return.—The Nirvachan Adhikari shall verify the polling return received from the Matdan Adhyaksh and shall prepare an election return setting forth the result of election.

19-G. Equality of votes.—If an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Nirvachan Adhikari shall, forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

19-H. Declaration of result.—(1) When the verification under rule 19-F has been completed, the Nirvachan Adhikari shall, where no seats are to be filled by members of the Scheduled Castes, declare as many candidates securing the highest number of votes as there are seats to be filled to be duly elected.

(2) Where one or more seats are reserved for members of the Scheduled Castes, the Nirvachan Adhikari shall first declare those candidates who, being members of the Scheduled Castes, secure the largest number of votes to be duly elected to fill the reserved seats and then declare such of the remaining candidates as have secured the largest number of votes to be duly elected to fill the remaining seats.

Illustration.—At an election in a constituency to fill four seats of which two are reserved there are six candidates A, B, C, D, E and F and they secure votes in descending order, A securing the largest number. B, C and D are qualified to be chosen to fill the reserved seats, while A, E and F are not qualified. The Nirvachan Adhikari will first declare B and C duly elected to fill the two reserved seats, and then declare A and D (not E and F) to fill the remaining two seats.

19-I. Report of result.—As soon as may be after the result of an election has been declared, the Nirvachan Adhikari shall report the result to the District Magistrate and shall also inform the Secretary to the Sabha.

19-J. Custody, inspection and disposal of election papers.—(1) The Nirvachan Adhikari shall, after reporting the result of the election under rule 19-I forward all papers pertaining to the election to the District Panchayat Raj Officer for safe custody.

(2) All papers relating to the election shall be open to public inspection subject to such conditions and subject to payment of such fees as may be specified by the Nirvachan Nideshak (Panchayat).

(3) The election return referred to in rule 19-F shall be retained till the termination of the next general election for the Gaon Panchayat to which it relates and shall thereafter be destroyed subject to any directions to the contrary given by the Nirvachan Nideshak (Panchayat) or by a competent Court or by an authority hearing an election petition.

19-K. Constitution of Gaon Panchayat.—(1) As soon as at least two-thirds of the seats of members of Gaon Panchayat and the office of the Pradhan have been filled up the District Magistrate shall notify that the Gaon Panchayat has been duly constituted.

(2) The notification under sub-rule (1) shall contain the names of the members and of the Pradhan. It shall be published by affixing a copy thereof at the office of the Panchayat Inspector. A copy shall also be sent to the Secretary of the Sabha concerned.

19-L. Bye-election.—Where any vacancy arises by reason of death, resignation, removal or the avoidance of election of any member of the Gaon Panchayat or the appointment of any member of Gaon Panchayat as Panch of the Nyaya Panchayat under section 43 the District Magistrate shall call upon the constituency concerned to elect member or members, as the case may be, for the Gaon Panchayat before such date as may be fixed by him and shall also appoint the date, time and place for various stages of bye-election in accordance with the provisions of rule 17-A and the provisions of this chapter shall, as far as may be, apply, in relation to the election of a member to fill such vacancy.

19-M. Vacancies at General Election of Members.—(1) Upon receipt of report *[* * * *] of any seat remaining unfilled, the District Magistrate shall, as soon as may be, call upon the constituency concerned to elect member or members, as the case may be, for the Gaon Panchayat before such date as may be fixed by him and shall also appoint a fresh date time and place for each item mentioned in [sub-rule (2) of rule 17-A]** and the provisions of this chapter shall, as far as may be, apply in relation to the election of a member to fill such vacancy.

(2) If again the constituency fails to elect the full number of members to be elected at the election held under sub-rule (1), the District Magistrate shall report to the Nirvachan Nideshak (Panchayat) the number of seats remaining unfilled.

19-N. Penalties.—Any person who—

- (a) alters or tampers with the register of members or its copy or other documents in contravention of the rules ; or
- (b) obstructs in any way interferes with any officer or servant appointed or employed for the purposes of these rules in the performance of his duties ; or
- (c) defaces, injures, disturbs or removes any copy, notice or other documents affixed or otherwise published under these rules in any public office or elsewhere,

shall be punishable with fine which may extend to rupees ten.

CHAPTER I-E—Election of Pradhan and Up Pradhan

20. Interpretations.—(1) In this chapter, unless there is anything repugnant in the subject or context—

- (a) “contesting candidate” means a candidate whose name is included in the list of contesting candidates prepared under rule 20-H ; and
- (b) “election” means an election for the office of the Pradhan of a Sabha.

* The words [under sub-Rule (3) of Rule 18-E] deleted by Notification No. 150-P-XXXIII
—61 dated January 9, 1961.

** Substituted, for [Sub-Rule (3) to Rule 17-A], ibid.

(2) For the purposes of these rules, a person who is unable to write his name, shall, unless otherwise expressly provided in these rules be deemed to have signed an instrument or other paper if—

- (a) he has placed a thumb-mark on such instrument or other paper in the presence of the Nirvachan Adhikari or the Matdan Adhyaksh ; and
- (b) such Adhikari or Adhyaksh on being satisfied as to his identity has attested the mark as being the thumb-mark of that person.

(3) The provisions of rule 16 of Chapter I-D except clauses (a), (b), (c), (g) and (h) of sub-rule (1) thereof, shall *mutatis mutandis* apply to the elections under [and interpretation of the provisions of]* this chapter.

20-A. Application of Rules 16-A, 16-B, 16-C, 16-D, 16-E, 16-F, 16-G and 16-H of Chapter I-D to elections under this chapter.—The provisions of rules 16-A, 16-B, 16-C, 16-D, 16-E, 16-F, 16-G and 16-H of Chapter I-D shall *mutatis mutandis* apply to the elections under this chapter :

Provided that the Nirvachan Adhikari or Sahayak Nirvachan Adhikari for the Sabha appointed under rules 16-B and 16-C shall respectively be the Nirvachan Adhikari and the Sahayak Nirvachan Adhikari for the election of Pradhan of that Sabha and it shall not be necessary to make any separate appointment :

Provided further that any reference in the said provisions to a constituency shall be construed as reference to a Sabha :

Provided also that the Nirvachan Adhikari may provide such number of polling booths at the polling place as may appear to him necessary for the convenience of polling.

20-B. General election of Pradhans.—The general election to the office of the Pradhan of a Gaon Sabha shall be held in accordance with the provisions of this chapter.

20-C. List of symbols.—The Nirvachan Nideshak (Panchayat) shall specify symbols to be used at the elections.

20-D. Printing and supply of nomination papers.—The Nirvachan Nideshak (Panchayat) shall, arrange for the printing and supply of nomination papers to the candidates. The price of each nomination paper shall be such not exceeding Rs. 12 as may be fixed by the Nirvachan Nideshak (Panchayat).

20-E. Notices of election and fixing of dates.—(1) Whenever a general election is to be held to constitute a new Gaon Panchayat, the District Magistrate shall, under directions from the Nirvachan Nideshak (Panchayat), simultaneously call upon the Sabha concerned to elect a Pradhan for the Sabha before such date as may be fixed by the Nirvachan Nideshak (Panchayat) :

Provided that nothing in the rule shall prevent the District Magistrate from issuing one notice for all the Sabhas or a group of Sabhas in the District.

(2) The provisions of sub-rules (2) to (4) of rule 17-A of chapter I-D shall apply, as far as may be, to the elections under this chapter :

* The words in brackets are added by Notification No. 150-P-XXXIII-61 dated January, 9, 1961,

Provided that any reference in the said provision to the preliminary withdrawal shall be construed as to withdrawal.

20-F. Presentation of nomination paper.—(1) A member of a Sabha who desires to be nominated as a candidate at an election shall deliver either in person or by his Nirvachan Abhikarta to the Nirvachan Adhikari on the date and the place and during the hours fixed under rule 20-E, a nomination paper duly completed in the specified form.

(2) Nothing in these rules shall prevent any candidate from being nominated by more than one nomination paper for the same election.

(3) Any nomination paper which is not received before the close of the hour fixed in that behalf on the date appointed for filing nomination paper shall be rejected by the Nirvachan Adhikari.

*[(4) Where no nomination paper is received before the close of the hour fixed in that behalf on the date appointed for filling of nomination papers the Nirvachan Adhikari shall report the fact to the District Magistrate].

20-G. Notice and scrutiny of nominations and withdrawal of can didature.—The provisions of rules 18-A, 18-B and 18-C of chapter I-D shall a far as may apply to elections under this chapter.

20-H. List of contesting candidates and allotment of symbols.—(1) Immediately after the expiry of the date for withdrawal of candidature the Nirvachan Adhikari shall prepare a list of contesting candidates in the specified form.

(2) The Nirvachan Adhikari shall, simultaneously with the preparation of the list of contesting candidates, allot, subject to any general or special directions issued in this behalf by the Nirvachan Nideshak (Panchayat), a different symbol to each contesting candidate.

(3) The allotment by the Nirvachan Adhikari of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the Nirvachan Nideshak (Panchayat) in this behalf in which case the Nirvachan Nideshak (Panchayat) may revise the allotment in such matter as he thinks fit.

(4) Every candidate or his Nirvachan Abhikarta shall forthwith be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the Nirvachan Adhikari.

(5) The list of contesting candidates shall contain the names in alphabetical order of the contesting candidates as given in their nomination papers. The alphabetical order shall be determined with reference to the names proper of candidates.

20-I. Declaration of results in certain cases.—(1) Where on preparing the list under rule 20-H, the Nirvachan Adhikari finds that there is only one contesting candidate, he shall forthwith declare him to be duly elected, and shall report to the District Magistrate the name of the candidate declared elected.

(2) If all candidates have withdrawn, the Nirvachan Adhikari shall report the fact to the District Magistrate [* * * * *].

* Added by Notification No. 150 P- XXXIII—6I dated January 9, 1961.

** The words [where upon Proceedings shall be taken as if for a new election], deleted by Notification No. 150—P, XXXIII—6I dated January 9, 1961.

20-J. Contested elections.—Where on preparing a list under rule 20-H, the Nirvachan Adhikari finds that the number of contesting candidates exceeds one, he shall forthwith publish the list in such manner as may be specified by the District Magistrate and shall also declare that a poll shall be taken on the date and place and during the hours fixed in that behalf.

20-K. Death before poll.—If a contesting candidate dies before a poll is held, and the Nirvachan Adhikari finds that there remains only one contesting candidate he shall forthwith proceed in accordance with the provisions of Rule 20-I and declare the result.

*[**20-KK. Retirement.**—(1) Where all the contesting candidates except one desire to retire from the contest at the election, they may make a joint application to that effect as hereinafter provided.

(2) The application under sub-rule (1) shall be delivered by such contesting candidates either personally or through their Nirvachan Abhikartas to—

(a) the Nirvachan Adhikari not less than three days before the date appointed for polling; or

(b) the Matdan Adhyaksh on the date appointed for polling but before the hour of commencement of poll.

(3) On the receipt of the application the Matdan Adhyaksh shall not proceed with the poll and shall forward the application to the Nirvachan Adhikari.

(4) On receipt of the application the Nirvachan Adhikari shall proceed in accordance with the provisions of rule 20-I and declare the result accordingly.]

20-L. Admission to polling place.—The provisions of rule 19-A of chapter I-D shall *mutatis mutandis* apply to elections under this chapter,

20-M. Procedure of voting.—At every election held under this chapter, the method of voting by marking the ballot paper shall be followed and no votes shall be received by proxy.

20-N. Ballot Papers.—Every ballot paper shall be of such form and of such design as the Nirvachan Nideshak (Panchayat) may direct.

20-O. Ballot boxes.—(1) Every ballot box shall be of such design and colour as may be approved by the Nirvachan Nideshak (Panchayat).

(2) It shall be so constructed that a ballot paper can be inserted therein during the poll only, but cannot be withdrawn therefrom without the box being unlocked or the seals being broken.

20-P. Notice at polling place.—Outside and inside the polling place and the polling booths, if any, there shall be displayed prominently—

(a) a notice specifying the polling area the electors of which are to vote at the polling place or the polling booth as the case may be, and

(b) a copy of the list of contesting candidates prepared under rule 20-H.

20-Q. Arrangement for secrecy of voting.—The polling place shall be furnished with such number of polling compartments in which electors can record their votes screened from observation as the Nirvachan Adhikary thinks necessary.

* Rule 20 kk added by Notification No. I50—P, XXXIII dated January 9, 1961,

20-R. Ballot papers and other materials to be provided at a polling place.—The Nirvachan Adhikari shall provide at the polling place—

- (a) as many ballot boxes as may be necessary;
- (b) sufficient number of ballot papers and copies of the Adult Register in respect of the polling area the electors whereof or entitled to vote at the polling place; and
- (c) materials sufficient for the purpose of enabling electors to make the ballot papers.

20-S. Preparation of ballot box for the poll.—(1) The Matdan Adhyaksh shall, immediately before the commencement of the poll, allow the contesting candidates and their Abhikartas who may be present at such place to inspect each ballot box to be used at the poll and demonstrate to them that it is empty.

(2) Each ballot box, or any of its component parts or attachments, shall also be marked with such other distinguishing mark or marks as the Nirvachan Nideshak (Panchayat) may direct.

(3) Where it is necessary to use paper seals for securing the ballot boxes, the Matdan Adhyaksh shall affix his own signature on a paper seal for each ballot box and obtain thereon the signature or seals of such candidates or their Abhikartas as may be present and may desire to affix the same.

(4) The Matdan Adhyaksh shall thereafter affix the paper seal so signed or sealed in the space meant therefor in the ballot box and shall then secure and seal each ballot box in their presence in such manner that the slit for the insertion of ballot paper thereinto remains open.

(5) Where it is not necessary to use paper seals for securing the ballot boxes, Matdan Adhyaksh shall secure and seal each ballot box in such manner that the slit for the insertion of ballot papers remains open and shall allow the candidates or their Abhikartas who may be present to affix, if they so desire, their own seals as well.

(6) The seals used for securing a ballot box shall be affixed in such manner that it shall not be possible to open the box without breaking them.

20-T. Placing of ballot boxes for receipt of ballot papers.—Every ballot box shall be placed for the receipt of ballot papers in the view of the Matdan Adhyaksh the contesting candidates and their Abhikartas.

20-U. Identification of electors.—(1) The Matdan Adhyaksh may employ at the polling place such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in taking the poll.

(2) As each elector enters the polling place the Matdan Adhyaksh or the Matdan Adhikari authorized by him in this behalf shall check the elector's name and other particulars with the relevant entry in the Adult Register and then call out the serial number, name and other particulars of electors.

(3) Any contesting candidate or his Abhikarta may challenge the identity of a person claiming to be a particular elector and where such challenge is made, the Matdan Adhyaksh shall hold a summary enquiry into the challenge and may for that purpose enquire the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identity.

(4) If after such enquiry the Matdan Adhyaksh is of the opinion that the challenge has not been established, he shall allow the person challenged to vote.

(5) In deciding the right of a person to obtain a ballot paper, the Matdan Adhyaksh shall overlook merely clerical or printing errors in an entry in the Adult Register, provided that he is satisfied that such person is identical with the elector whom such entry relates.

20-V. Issue of ballot papers to electors.—(1) After the identity of a voter has been established a ballot paper shall be issued to him.

(2) Every ballot paper may before issue to an elector be stamped with such distinguished mark as the Nirvachan Nideshak (Panchayat) may direct.

(3) At the time of issuing any ballot paper to an elector the Matdan Adhyaksh shall record, in such manner as the Nirvachan Nideshak (Panchayat) may direct, the serial number thereof against the entry relating to the elector in a copy of the Adult Register set apart for the purpose (hereinafter in these rules referred to as "the marked copy of the Adult Register").

20-W. Voting.—(1) The elector on receiving the ballot paper, shall forthwith proceed to one of the polling compartments and there make a mark on the ballot paper on or near the symbol of the candidate for whom he intends to vote in accordance with such directions as the Nirvachan Nideshak (Panchayat) may issue in this behalf and fold it so as to conceal his vote, and after showing to the Matdan Adhyaksh the distinguishing mark on the ballot paper, insert the ballot paper so folded in the ballot box in the presence of the Matdan Adhyaksh.

(2) Every elector shall vote without undue delay and shall quit the polling place as soon as he has inserted his ballot paper into the ballot box.

(3) No elector shall be allowed to enter a polling compartment when another elector is inside it.

20-X. Instruction for recording votes to be explained by the Matdan Adhyaksh when requested.—The Matdan Adhyaksh shall, when he is so requested by an elector, explain to him the directions issued by the Nirvachan Nideshak (Panchayat) for the recording of votes.

20-Y. Recording of votes of blind or infirm electors.—(1) If owing to blindness or other physical infirmity, an elector is unable to recognize the symbols on the ballot paper or make a mark thereon, the Matdan Adhyaksh shall record the vote on the ballot paper in accordance with the wishes of the elector and fold it up so as to conceal the vote.

(2) The elector shall then himself or with the assistance of the Matdan Adhyaksh insert the ballot paper into the ballot box.

(3) While acting under this rule, the Matdan Adhyaksh shall observe as much secrecy as is feasible and shall keep a brief record of each such instance, but shall not indicate therein the manner in which any vote has been given.

20-Z. Return of ballot papers by an elector.—(1) If an elector decides not to use a ballot paper after he has obtained the same, he shall return it to the Matdan Adhyaksh.

(2) Every such ballot paper shall be marked as cancelled and kept in a cover set apart for the purpose and the Matdan Adhyaksh shall keep a record of all such ballot papers.

21. Matdan Adhyaksh's entry into polling compartment during poll.—(1) If the Matdan Adhyaksh has reason to suspect that an elector who has entered the polling compartment has remained inside the polling compartment unduly long he shall enter the polling compartment and take such steps as may be necessary to ensure the smooth and prompt progress of the poll.

(2) Whenever the Matdan Adhyaksh enters the polling compartment under this rule, he shall be accompanied by such of the contesting candidates or their Abhikartas as desire to do so.

21-A. Ballot papers found outside ballot boxes.—If any ballot paper which has been issued to an elector has not been inserted by him into the ballot box, and is found anywhere in or near the polling place, it shall be cancelled and dealt with in a manner similar to that laid down in rule 20-Z.

21-B. Tendered votes.—(1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector, he shall, after duly answering such questions as the Matdan Adhyaksh may ask, be supplied with a ballot paper which shall be stamped as tendered ballot paper.

(2) Every such person shall before being supplied with a tendered ballot paper, sign his name against the entry relating to him in a list in the specified form.

(3) Such person shall thereafter record his vote on the tendered ballot paper as far as may be in accordance with the provisions of rule 20-W, but shall not insert his ballot paper in the ballot box.

(4) Every such tendered ballot paper shall be handed over to the Matdan Adhyaksh who shall forthwith place it in a cover which shall be sealed and all such covers containing tendered ballot papers shall be kept in a separate packet.

21-C. Sealing of ballot boxes, etc. after poll.—(1) As soon as practicable after the close of the poll the Matdan Adhyaksh shall close the slit of each ballot box and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any contesting candidate or his Abhikarta who may be present to seal the same.

(2) All the ballot boxes shall thereafter be sealed and secured in the manner specified.

(3) The Matdan Adhyaksh shall then make up into separate packets—

- (a) the unused ballot papers ;
- (b) the covers containing the tendered ballot papers ;
- (c) the cancelled ballot papers ;
- (d) the marked copy of the Adult Register ;
- (e) the list of tendered votes ; and
- (f) any other papers directed by the Nirvachan Adhikari to be kept in a sealed packet.

(4) Each such packet shall be sealed with the seals of the Matdan Adhyaksh as also of such of the contesting candidates or their Abhikartas as may desire to affix their seal thereon.

21-D. Account of ballot papers.—The Matdan Adhyaksh shall at the close of the poll prepare a ballot paper account in the specified form.

21-E. Transmission of ballot, boxes etc. to the Nirvachan Adhikari.—As soon as may be after the ballot boxes and Packets have been sealed in accordance with rule 21-C, the Matdan Adhyaksh shall deliver or cause to be delivered to the Nirvachan Adhikari at such place as the Nirvachan Adhikari may direct—

- (a) the ballot boxes,
- (b) the packet referred to in rule 21-C,
- (c) the ballot paper account, and
- (d) all other papers used at the poll.

21-F. Transport of ballot boxes and packets and their custody.—The Nirvachan Adhikari shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers referred to in rule 21-E and for their safe custody until the commencement of the counting of votes.

21-G. Adjournment of poll in emergencies.—(1) If at an election the proceedings at the polling place are interrupted or obstructed by any riot or violence or if it is not possible to take the poll on account of any natural calamity or any other sufficient cause, Matdan Adhyaksh for such polling place shall announce an adjournment of the poll to a date to be notified later and where the poll is so adjourned the Matdan Adhyaksh shall forthwith inform the Nirvachan Adhikari.

(2) whenever a poll is adjourned under sub-rule (1) the Nirvachan Adhikari shall immediately report the circumstances to the District Magistrate and shall as soon as may be with his previous approval appoint a day for the taking of a fresh poll and fix the place at which and the hours during which a fresh poll shall be taken and notify the same in such manner as may be specified by the District Magistrate.

(3) In every such case as aforesaid the Matdan Adhyaksh shall take a fresh poll and the provisions of this chapter shall apply in relation to fresh poll as they apply to the original poll.

21-H. Fresh poll in case of destruction etc. of ballot boxes.—(1) If at any election any ballot box is unlawfully taken out of the custody of the Nirvachan Adhikari or of any Matdan Adhyaksh, or is in any way tampered with, or is either accidentally or intentionally destroyed or lost, the polling at the election to which such ballot box relates shall be void.

(2) Whenever the polling shall become void under sub-rule (1) the Nirvachan Adhikari shall as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the District Magistrate and shall with his previous approval, appoint a day for the taking of a fresh poll and fix the place at which and hours during which the poll shall be taken and notify the same in such manner as may be specified by the District Magistrate.

(3) In every such case as aforesaid the Matdan Adhyaksh shall take a fresh poll and the provisions of this chapter shall apply to every such fresh poll as they apply to the original poll.

21-I. Appointment of time, place and date for the counting.—(1) The Nirvachan Adhikari shall appoint a date for the counting of votes which shall be as soon as practicable after the completion of the poll and shall fix the place and time at which the votes shall be counted.

(2) The Nirvachan Adhikari shall give notice of such date, time and place to the contesting candidates or their Nirvachan Abhikartas.

(3) If at the time so appointed for the counting of votes the ballot boxes containing the votes to be counted are not received by the Nirvachan Adhikari or if due to any other unavoidable cause he is unable to proceed with the counting, he may postpone the counting to another date and fix the time and place for it and give notice thereof to the contesting candidates or their Nirvachan Abhikartas.

21-J. Ganana Abhikarta.—(1) A contesting candidate or his Nirvachan Abhikarta may appoint one person to be present as his Ganana Abhikarta (counting agent) at the counting of votes.

(2) Every such appointment shall be made in writing.

(3) No [Ganana Abhikarta]* shall be admitted into the place fixed for counting unless he has delivered to the Nirvachan Adhikari the letter of his appointment under sub-rule (2).

21-K. Person who may present at the counting.—(1) The Nirvachan Adhikari shall not allow any person to be present at the counting of votes except such persons as he may appoint to assist him in counting and every contesting candidate, his Nirvachan Abhikarta and his Ganana Abhikarta.

(2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed to assist the Nirvachan Adhikari on counting the votes.

21-L. Procedure at the counting.—On the date and at the time and place appointed under rule 21-I, the Nirvachan Adhikari shall proceed as follows :—

- (a) The Nirvachan Adhikari shall satisfy himself that all the ballot boxes used at the poll and which are to be counted at that place have been received and accounted for.
- (b) The Nirvachan Adhikari shall then allow the candidates and their Nirvachan Adhikari and Ganana Abhikartas present at the counting an opportunity to inspect the ballot boxes and their seals for satisfying themselves that they are in order.
- (c) The Nirvachan Adhikari shall also satisfy himself that none of the boxes has in fact been tampered with. If any ballot box is found by him to have been tampered with or destroyed or lost, the Nirvachan Adhikari shall not proceed with the counting of votes and the provisions of rule 21 H shall apply.
- (d) If the Nirvachan Adhikari is satisfied that all such ballot boxes which are to be counted as such place have been received and are in order, he shall take up the counting of ballot papers contained in the ballot boxes. All the ballot boxes used at a polling place shall be opened, and the counting of the ballot papers found in those boxes proceeded with, at the same time.
- (e) An account of the ballot papers found in the boxes of the polling place shall be recorded in a statement in the specified form.
- (f) The Nirvachan Adhikari shall allow the candidates, their Nirvachan Abhikartas and Ganana Abhikartas, who may be present, reasonable opportunity to inspect all ballot papers which in the

*Sub. by Notification No. 130-P. XXXIII—61 dated January 9, 1961.

opinion of the Nirvachan Adhikari are liable to be rejected, but shall not allow them to handle those or any other ballot papers. The Nirvachan Adhikari shall on every ballot paper which is rejected endorse rejection thereon in Hindi. If any candidate or his Nirvachan Abhikarta questions the correctness of the rejection of any ballot paper, the Nirvachan Adhikari shall also record briefly on such ballot paper the grounds for his rejection.

- (g) After the counting of all ballot papers contained in the ballot boxes of the polling place has been completed the Nirvachan Adhikari shall cause all such ballot papers to be kept in a separate packet on which shall be indicated such particulars as will identify the name of the Gaon Sabha to which the ballot papers relate.

21-M. Grounds for rejection of ballot papers.—(1) The Nirvachan Adhikari shall reject a ballot paper—

- (a) if it bears any mark or writing by which an elector can be identified ; or
- (b) if it is a spurious ballot paper ; or
- (c) if it has been so damaged or mutilated that its identity as a genuine ballot paper cannot be established ; or
- (d) if it bears a serial numbers or, as the case may be, design, of the ballot papers authorized for use at the particular poling place ; or
- (e) if votes are given on it in favour of more candidates than one ; or
- (f) if no vote is recorded thereon.

(2) A vote recorded on a ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.

(3) The decision of the Nirvachan Adhikari as to the validity of a ballot paper or of a vote given on any such ballot paper shall be final subject, however, to any decision to the contrary given on the trial of an election petition calling in question the election.

21-N. Verification of accounts submitted by the Matdan Adhyaksh.—The Nirvachan Adhikari shall not open the sealed packets of the tendered ballot papers or the marked copy of the Adult Register. He shall verify the statement submitted by the Matdan Adhyaksh under rule 21-E, by comparing it with the numbers of counted votes and rejected ballot papers, the unused or spoilt ballot papers in his possession and the tendered votes list. He shall then re-close and re-seal each packet which has been opened by him and shall record on each packet a description of its contents, the name of the Sabha, and the date of the election to which it refers.

21-O. Election return by the Nirvachan Adhikari.—The Nirvachan Adhikari shall then prepare and certify an election return in the specified form setting forth—

- (a) the names of the candidates for whom valid votes have been given ;
- (b) the number of valid votes given for each candidate ;

- (c) the total number of valid ballot papers ;
- (d) the number of rejected ballot papers ;
- (e) the number of tendered ballot papers ; and
- (f) the name of the candidate elected.

He shall also permit any contesting candidate or his Nirvachan Abhikarta or Ganana Abhikarta to take a copy of or an extract from such return.

21-P. Equality of votes.—If after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared, the Nirvachan Adhikari shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

21-Q. Declaration of result.—When the counting of votes recorded on the ballot papers contained in the ballot boxes has been completed, the Nirvachan Adhikari shall declare the candidate securing the highest number of votes as elected.

21-R. Report and notification of election.—As soon as may be after declaration of the result under rule 21-Q, the Nirvachan Adhikari shall report the result to the District Magistrate and shall also inform the secretary of the Gaon Sabha.

21-S. Custody of the return and of the ballot papers and other papers relating to election.—(1) The Nirvachan Adhikari shall, after reporting the result of the election under rule 21-R forward return to the District Panchayat Raj Officer for safe custody.

(2) The Nirvachan Adhikari shall also forward to the District Panchayat Raj Officer for safe custody the packets of ballot papers and all other papers relating to the election.

21-T. Production and inspection of election papers.—(1) While in the custody of the District Panchayat Raj Officer the packets of ballot papers whether valid, rejected or tendered, and of the marked copy of the Adult Register shall not be opened and their contents shall not be inspected by or produced before, any person or authority except under the order of a competent court or of an authority hearing an election petition.

(2) Copies of the election return by the Nirvachan Adhikari forwarded under sub-rule (1) of rule 21-S, shall be furnished by the District Panchayat Raj Officer on payment of a fee of two rupees for each copy.

(3) All other papers relating to the election shall be open to public inspection subject to such condition and subject to the payment of such fees as may be specified by the Nirvachan Nideshak (Panchayat).

21-U. Disposal of election papers.—(1) The election return and the report mentioned in rules 21-O and 21-R respectively, shall be retained until the termination of the next general election to the office to which they relate and shall thereafter be destroyed subject to any direction to the contrary given by the Nirvachan Nideshak (Panchayat) or by a competent court or by an authority hearing an election petition.

(2) All other papers relating to the election shall be retained for a period of one year and shall thereafter be destroyed subject to any direction to the contrary given by the Nirvachan Nideshak (Panchayat) or by a competent court or by an authority hearing an election petition.

21-V. Offences.—The provisions of rule 19-N shall *mutatis mutandis* apply to elections under this chapter.

21-W. Bye-elections.—If a casual vacancy arises in the office of Pradhan by reason of the death, resignation, removal or the avoidance of election of a Pradhan or otherwise, the District Magistrate shall, as soon as may be, on the report of vacancy, appoint the date, time and place for various stages of bye-election in accordance with rule 17-A and the rules contained in this chapter shall apply, as far as may be in relation to the election of a Pradhan to fill such vacancy.

***[21-X. Failure to elect a Pradhan.]**—(1) Where a Sabha has failed to elect Pradhan in pursuance of the notice issued under rule 20-E, the District Magistrate shall as soon as may be, call upon the Sabha once again to elect a Pradhan for the Sabha before such date, as may be fixed by him and shall appoint a fresh date, time and place for each item mentioned in sub-rule (2) of rule 17-A and the provisions of this chapter shall, as far as may be, apply in relation to the election of Pradhan as aforesaid.

(2) If again the Sabha fails to elect a Pradhan, the District Magistrate shall report the fact to the Nirvachan Nideshak (Panchayat).]

22. Election of Up-Pradhan.—As soon as may be after the Notification of the constitution of Gaon Panchayat the Pradhan or in case of his incapacity for any reason or failure to call a meeting, the Panchayat Inspector shall call a meeting of the Gaon Panchayat to elect an Up-Pradhan.

(2) The election of an Up-Pradhan shall be held by show of hands and by the simple majority system.

(3) Any member of the Gaon Panchayat may propose in the printed specified nomination form any name from amongst the members of the Gaon Panchayat.

(4) The Director of Panchayats shall arrange for the supply of printed nomination forms at a price not exceeding rupee one per form.

(5) The Pradhan or in his absence such other member as may be appointed by the District Magistrate to provide at the meeting shall take down the names proposed, arrange them in the Hindi alphabetical order, the name at the top and count and note down the number of hands raised in call out support of the candidature of the person whose name was called out. He will similarly proceed with the second and subsequent names and after all the names have been exhausted declare the candidate securing the largest number of votes to be duly elected as Up-Pradhan.

(6) If an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of those candidates to be declared elected, the Pradhan or the member presiding at the meeting shall forthwith decide between those candidates by lot and proceed as if the candidate on whom the lot falls received an additional vote.

(7) Whenever the term of an Up-Pradhan is about to expire or a vacancy in the office of Up-Pradhan arises due to the death, resignation or avoidance of election of an Up-Pradhan the Gaon Panchayat shall elect an Up-Pradhan in accordance with the provisions of this rule in succession to the outgoing Up-Pradhan and the term of any Up-Pradhan so elected shall begin from the date

1. Added by Notification No. 150-P-XXXIII—61 dated January 9, 1961.

next following the date of expiry of the term of the outgoing Up-Pradhan or the date of election, whichever is later.

23. Vacation of office under section II-D of the Act.—(1) If a person chosen to two offices which he cannot simultaneously hold under the provisions of section 11-D of the Act he shall submit his resignation for all but one of those offices or seats within thirty days of the date of the declaration of election, or if the declaration of election in respect of the two or more offices has been made on different dates within thirty days of the last of such dates.

(2) In the event of failure of the person who has been elected as Pradhan as well as a member of a Gaon Panchayat to resign in accordance with the provisions of sub-rule (1), his seat as member of Gaon Panchayat shall be deemed vacant.

(3) In the event of failure of the person who has been elected as a member of a Gaon Panchayat from more than one constituency to resign in accordance with the provisions of sub-rule (1), the prescribed authority shall decide which seat he shall hold and the other seat or seats shall be deemed vacant.

(4) In the event of failure of the person who holds any offices or seats in more than one Gaon Sabhas or Gaon Panchayat resign in accordance with the provisions of sub-rule (1), the prescribed authority shall decide which office or seats he shall hold and other offices or seats shall then be deemed vacant.

(5) The office or offices and seat or seats becoming vacant under sub-rules (1), (2), (3) and (4) shall be filled as if there were a casual vacancy.

CHAPTER I-F—Election Petitions

24. Form and presentation of application.—(1) An application under sub-section (1) of section 12-C of the Act shall be presented before the Sub-Divisional Officer within whose jurisdiction the *Sabha* concerned lies within *[forty-five days after the day on which the result of the election questioned is announced under the provisions of chapter I-D or I-E as the case may be] and shall specify the ground or grounds on which the election of the respondent is questioned and contain a summary of the circumstances alleged to justify the election being questioned on such grounds:

Provided that no such application shall be entertained unless it is accompanied by a treasury chalan to show that the amount of Rs. 5 has been deposited in the personal Ledger Account of the *Sabha* concerned as security.

(2) The application may be presented by any candidate in whose favour votes have been recorded or whose nomination paper was rejected or by any ten or more electors of the *Sabha*.

(3) The person whose election is questioned and, where the petition claims that the petitioner or any other candidate shall be declared elected in the room and place of such person, every unsuccessful candidate shall be made a respondent to the application.

* Sub. for the words [thirty days after the day on which the result of the election questioned is announced by the returning officer under Rule 18-F or 19-I] by Notification No. 150 P. XXXIII—61 dated January 9, 1961.

(4) Every respondent may give evidence to prove that any person in respect of whom a claim is made that such person be declared elected, should not be declared so elected on the same ground or grounds on which his election could have been questioned if he had been elected.

25. Hearing of the petition—(1) Subject to the provisions of the Act and the rules contained in this chapter, every election petition shall be tried by the Sub-divisional Officer, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that—

- (i) the Sub-Divisional Officer may hear the petitioner or his counsel and if he finds that the petition has no substance, reject the same without the issue of any notice to the opposite parties;
- (ii) it shall not be necessary for the Sub-Divisional Officer to record the evidence in full and he may maintain only a memorandum of evidence produced by the parties before him;
- (iii) if there is a sole petitioner and he dies, or there is a sole respondent and he dies, the petition shall abate;
- (iv) *[*****]
- (v) Sub-Divisional Officer may allow only such evidence to be produced as he deems relevant for the purposes of deciding the petition;
- (vi) the District Magistrate may at any stage on sufficient cause being shown transfer an application made under sub-section (1) of section 12-C for hearing to another Sub-Divisional Officer;
- (vii) an application not presented within time or unaccompanied by a treasury chalan as required under sub-rule (1) of rule 24 may at any time be dismissed by the Sub-Divisional Officer; and
- (viii) the Sub-Divisional Officer may, on an application of either party made within five days after the date of his decision, review his order.

(2) If the Sub-Divisional Officer after hearing finds in respect of any person whose election is called in question by the petition, that his election was valid, he shall dismiss the petition as against such person and may award costs at his discretion and in case he finds the application to be altogether frivolous he may also order that the security deposit shall in part or whole be forfeited to the *Sabha* concerned.

(3) If the Sub-Divisional Officer finds that the election of any person was invalid he shall either—

- (a) declare a casual vacancy to have been created, or
- (b) declare another candidate to have been duly elected, whichever course appears, in the particular circumstances of the case, to be appropriate, and in either case may award costs at his discretion :

Provided that no such declaration shall be made unless a claim for it has been made in application.

(4) The security deposit or portion thereof, as the case may be, not forfeited under sub-rule (2) and not required for payment of any costs

* Cl. (iv) of the proviso deleted by Notification No. 150-P-XXXIII—61 dated January 9, 1961.

awarded to any opposite party shall be refunded by the District Panchayat Officer to the person depositing the same or in case of his death, to his legal representative.

*[(5) On the application of any of the parties and after notice to the parties and after hearing such of them as desired to be heard or of his own motion without such notice or hearing, the District Magistrate may, at any stage, withdraw any application under sub-section (1) of section 12-C of the Act pending in the district for disposal and—

- (a) himself try or dispose of the same, or
- (b) transfer the same for trial or disposal to any Assistant Collector of the First Class in the District, or
- (c) transfer the same for trial or disposal to the officer from whom it was withdrawn.

The provisions of rule 24 and of this rule shall *mutatis mutandis* apply for the trial and disposal of application so withdrawn or transferred.]

NOTES

The rule applies only to those provisions of the Code of Civil Procedure which relate only to the trial of suits to the trial of election petitions, in other words it does not confer upon a Sub-Divisional Officer all the powers that are conferred upon a Court by the Code of Civil Procedure. The Sub-Divisional Officer hearing an election petition cannot, therefore, grant any interim relief for the duration of the petition.**

26. Disputes relating to election of Up-Pradhan—(1) Any person desiring to dispute the election of an Up-Pradhan shall within 30 days after the date of election present an application to the Sub-Divisional Officer of the division in which *Sabha* concerned is situated on the following grounds :

- (a) the election has not been a free election by reason that the corrupt practice of bribery or undue influence was extensively prevailed at the election, or
- (b) that the result of the election has materially affected by gross failure to comply with the provisions of the Act or rules framed thereunder.

Note.—For the purpose of this rule corrupt practices of bribery or undue influence shall be deemed to be the same as given in sub-section (2) of section 12-C of the Act :

Provided that no such application shall be entertained unless it is accompanied by a Treasury Chalan to show that an amount of Rs. 5 has been deposited in the Personal Ledger Account of the *Sabha* concerned as security.

(2) The Sub-Divisional Officer shall hear the application himself.

(3) An application disputing the election of an Up-Pradhan shall be heard in accordance with the provisions of rules 24 and 25 in so far as the same may be applicable.

NOTES

The election of a legally unqualified person materially affects the result of an election.***

*Added by Notification No. 150-P-XXXIII—61 dated January 9, 1961.

**Rameshwar Dayal v. S.D.O. Ghatampur 1961 RD.195.

***Devi Prasad Pandey v. S.D.O. 1961 RD 61.

27. & 28. [****] Deleted.

CHAPTER II—Appointment of Prescribed Authority

29. & 30. [****] Deleted.

CHAPTER III—Gaon Sabha, Gaon Panchayat and Committees.

**Rules regarding the sitting and quorum of Gaon Sabha and
Gaon Panchayat and the conduct of their proceedings.**

31. **Meetings of Gaon Sabhas and Gaon Panchayats.**—(1) The meetings of a *Gaon Sabha* and of its *Gaon Panchayat* shall ordinarily be held in the village where the office of the *Gaon Sabha* is located.

(2) Except as otherwise provided in the Act or these rules, the Pradhan, and in his absence the Up-Pradhan, shall convene a meeting of a *Gaon Sabha* or of its *Gaon Panchayat* and shall fix the time, date and exact place of the meeting.

32. **Notice of meeting.**—The notice of a meeting of a *Gaon Sabha* shall be given at least 15 days before the date of the meeting, and in the case of a meeting of a *Gaon Panchayat*, a written notice of at least five days shall be given.

33. **Convening of meeting.**—The Pradhan, or in his absence the Up-Pradhan, at any time may, and on a written requisition signed by not less than one-third of the members shall, within fifteen days from the receipt of such requisition convene a meeting of a *Gaon Panchayat*.

33-A. The period within which the prescribed authority may call a meeting of the *Gaon Sabha* under the second proviso to sub-section (1) of section 11 of the Act shall be 60 days from the receipt of requisition by the Pradhan under the first proviso to the sub-section.

33-B. **Procedure for removal of Pradhan or Up-Pradhan.**—(1) A written notice of the intention to move a motion for removal of the Pradhan or Up-Pradhan under section 14 of the Act shall be necessary. It shall be signed by not less than one-half of the total number of members of the *Gaon Sabha* and shall state the reasons for moving the motion and it shall be delivered in person by at least five members signing the notice to the prescribed authority.

(2) The prescribed authority shall as soon as may be after the receipt of the notice, convene a meeting of the *Gaon Sabha* under section 14 of the Act. The meeting so convened shall be presided over by the prescribed authority or the person authorised by him in writing in this behalf.

(3) The presiding officer shall read to *Gaon Sabha* the notice received by him. He shall then allow the motion to be moved and discussed. Such discussion shall terminate on the expiry of two hours appointed for the commencement of the meeting unless it is concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of two hours, as the case may be, the motion shall be put to vote. Voting shall be by show of hand.*

(4) The presiding officer shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.

*Added by notification No. 2700-P-XXXI11—699-56 dated September 10, 1957.

(5) The presiding officer shall declare the results of the voting. The motion shall be deemed to have been carried only when it has been passed by a majority of two-thirds of the members present and voting.

(6) The proceedings of the meeting shall be recorded by the Secretary who shall send a copy of proceedings together with a copy of the motion and the result of voting to the prescribed authority.

(7) Where the motion has been carried as provided in sub-rule (5), the Pradhan or Up-Pradhan, as the case may be, shall stand removed from his office with effect from a date to be specified by the prescribed authority in a notice which shall be affixed at the office of the *Gaon Sabha*. A copy of the notice may be sent to the Pradhan or Up-Pradhan as the case may be.

(8) The Pradhan or Up-Pradhan removed from office under sub-rule (7) shall make over charge of his office to the person named in the notice under sub-rule (7) and in case he fails to do so, the transfer of charge shall be effected through the police.

34. Nature of business to be stated in notice.—A notice of a meeting of a *Gaon Sabha* or a *Gaon Panchayat* shall state the nature of the business to be transacted at the meeting.

35. Quorum and procedure at the meeting of the Gaon Panchayat.—

(1) One-third of the total number of members of the *Gaon Panchayat*, including the Pradhan and Up-Pradhan, shall form the quorum for a meeting of the *Gaon Panchayat*.

(2) If a meeting is adjourned for want of quorum, no quorum shall be necessary for the adjourned meeting but a fresh notice in writing of the meeting shall be given.

(3) The following procedure shall be followed at the meeting of a *Gaon Panchayat*:

- (a) The proceedings of the last meeting shall be read and confirmed and then signed by the Pradhan.
- (b) The account for the previous month shall be presented and considered.
- (c) A list of changes, if any, made, in Parts I and II of the Register of Members under rules 8 and 9 after the last meeting, shall be presented.
- (d) The circulars and orders received from the Government, the Director of Panchayats, or District Panchayat Officer, shall be read and explained.
- (e) The development work done during the past month shall be presented.
- (f) Answers to questions, if any, required to be given under the rules shall be given.
- (g) The proceedings of sub-committees of *Gaon Panchayat* shall be read and considered.
- (h) Other items, if any, shall then be taken up and considered.

35-A. Procedure at the meeting of Gaon Sabha.—Subject to the provisions of section 11 of the Act, the following procedure shall be followed at the meetings of a *Gaon Sabha*:

- (a) The proceedings of the meeting shall be read and confirmed and then signed by the Pradhan.

(b) The accounts of the period elapsed since the last meeting shall be presented for information and consideration.

(c) Other items, if any, shall then be taken up and considered.

36. Proceedings to be kept in Hindi.—A *Gaon Sabha* and a *Gaon Panchayat* shall each keep in Hindi a brief record of its meetings and proceedings in a book in Form No. 8. A copy of the proceedings shall be sent to the prescribed authority within seven days of the meeting.

37. Meeting to be notified.—(1) A notice to attend a meeting of the *Gaon Sabha* shall state the date, time and place of the meeting and shall be published by affixing it at conspicuous places in the area of *Gaon Sabha*. The announcement of the date, time and place of the meeting shall also be made by the beat of drum.

(2) A notice of a meeting of a *Gaon Panchayat* shall be sent to each member through a chowkidar or a peon at least five days before the meeting and shall also be published by affixing copies of the notice at conspicuous places within the jurisdiction of the *Gaon Panchayat*.

38. Period of meeting.—A meeting of *Gaon Panchayat* shall be held at least once a month.

39. Notice of question or resolution.—Any member of a *Gaon Panchayat* who desires to bring forward any resolution or wishes to ask any question at any meeting of the *Gaon Panchayat* shall give notice of his intention to do so at the previous meeting or shall, at least ten days before the meeting, inform the Pradhan, or in his absence the Up-Pradhan or the Secretary, in writing of his intention:

Provided that the Pradhan of the meeting may, in his discretion permit the discussion of a resolution or transaction of any business for which no previous notice has been given, but which is, in his opinion, of an emergent nature calling for immediate discussion.

40. Reconsideration of a decision by Gaon Sabha or Gaon Panchayat.—No subject, once finally disposed of by a *Gaon Sabha* or a *Gaon Panchayat*, shall be reconsidered within three months next after passing of the resolution concerned unless not less than two-third of the members of *Gaon Sabha* or *Gaon Panchayat*, as the case may be, consent by signing a requisition to the effect :

Provided that the rates of a tax, fee or rate once imposed or the annual estimate of income and expenditure already passed shall in no case be revised without the approval of the prescribed authority.

41. Resolution or proposition before Gaon Sabha or Gaon Panchayat.—(1) The Pradhan may disallow the moving or discussing of any resolution or proposition before the *Gaon Sabha* or the *Gaon Panchayat* which he considers to be beyond the scope of function of the *Gaon Sabha* or the *Gaon Panchayat*, as the case may be, and in doing so, he shall record his reasons in writing.

(2) The resolutions or propositions disallowed under sub-rule (1) shall be discussed and passed or rejected by a majority of votes. In case of equality of votes, the Pradhan shall have a casting vote.

(3) No member may, unless so permitted by the Pradhan, speak for the second time on any motion or amendment :

Provided that the proposer of a motion or amendment shall have the right to speak a second time by way of reply.

42. Nature of questions to be asked.—Questions to be asked by a member of a *Gaon Panchayat* shall be in connection with the administration of the *Gaon Panchayat* under the Act, but they must not be argumentative or hypothetical or defamatory of any person or section of any community, nor shall they relate to any criminal, civil or revenue case pending, before a *Nyaya Panchayat* or the judicial conduct of *Nyaya Panchayat* or *Panch* thereof.

43. Disallowance of a question.—The Pradhan of a *Gaon Panchayat* may disallow any question which does not conform to the provisions of rule 42, and in any such case the question shall not be entered in the minutes.

44. Treatment of questions on receipt.—On receipt of the questions the Pradhan or Up-Pradhan or the Secretary or any other member authorized, shall serially number them in the order of their date of receipt and shall place them before the Pradhan who may give necessary directions to any officer or servant of the *Gaon Panchayat* to prepare answers to the questions.

45. Answering of questions.—(1) At the next meeting of the *Gaon Panchayat*, the Pradhan or with his permission the Up-Pradhan or the Secretary of the *Gaon Panchayat*, shall read answers to the questions duly received before the meeting, but no supplementary questions shall be allowed.

Expunction and withdrawal of a question.—(2) A member putting a question may withdraw the same at any time before the answer is read at the meeting, but in any such case the question shall be expunged from the minutes.

Question by proxy.—(3) If the member who has given due notice of any question has not withdrawn it before the meeting is held, and is not present at the meeting, the Pradhan may allow the question to be put by any other member present and the answers to the same to be read.

46. Temporary President of a meeting.—The Pradhan, and in his absence the Up-Pradhan, shall preside at the meetings of the *Gaon Sabha* and *Gaon Panchayat* and in case of the absence of both from any such meeting, the members nominated under rule 46-A shall preside at the meeting, or in case the Pradhan has not made such a nomination, the prescribed authority may nominate any member.

*[“If both the Pradhan and the prescribed authority fail to nominate any such member, the members of the *Gaon Sabha*, and *Gaon Panchayat* present at the meeting may elect any member of the *Gaon Panchayat* to preside at that meeting.”]

46-A. Nomination of temporary Pradhan.—For the purpose of discharging the functions of a Pradhan in the absence of both the Pradhan and Up-Pradhan of a *Gaon Sabha* the Pradhan may nominate in writing a member of the *Gaon Panchayat* and the member, so nominated, shall, during such absence exercise all the powers and perform all duties of the Pradhan conferred or assigned by or under the Act.

[46-B.** Where both the Pradhan and the Up-Pradhan of a *Gaon Sabha* are suspended, prescribed authority may nominate in writing a suitable member of the *Gaon Panchayat* as temporary Pradhan of the *Gaon Sabha* to exercise all the powers and perform all the duties of the Pradhan and until such date as either of them is reinstated, or if both of them are removed from office, until such date as a new Pradhan or Up-Pradhan is elected.]

*Added by notification no.2706-P/XXXIII—699-56, dated September 10,1957.

**Added by notification no. 1543-P/(B) 33-12-58, dated July 29, 1957.

47. Duties of the Pradhan of Gaon Panchayat.—Unless prevented by reasonable cause, it shall be the duty of the Pradhan—

- (a) (i) to convene and preside at all meetings of the *Gaon Sabha* and the *Gaon Panchayat*, and
- (ii) to control the transaction of business at the meetings and preserve order;
- (b) to watch over the finance and superintend the executive administration of the *Gaon Panchayat* and bring to its notice any defect therein;
- (c) to superintend and control the establishment maintained by the *Gaon Panchayat*;
- (d) to carry out the resolution of the *Gaon Panchayat*;
- (e) to arrange for the maintenance of the various registers provided under the rules and to carry on all correspondence on behalf of the *Gaon Panchayat* and the *Gaon Sabha*;
- (f) to arrange for the execution of various works for the custody of the property of the *Gaon Panchayat* and for the assessment and collection of taxes, rates, and fees imposed by the *Gaon Panchayat*;
- (g) to file civil case and launch prosecution on behalf of the *Gaon Panchayat* and the *Gaon Sabha*; and
- (h) to perform such other duties as are required of or imposed on him by or under the Act or any other law.

47-A. Special powers of the Pradhan.—In the case of any grave emergency and under intimation to the prescribed authority, a Pradhan may do any work which the *Gaon Panchayat* has power to do without obtaining the prior sanction of the *Gaon Panchayat*, but the matter shall be placed before the *Gaon Panchayat*, at its next meeting.

47-B. Pradhan's power to control and prevent epidemics.—For the purpose of controlling and preventing an outbreak of an epidemic or infectious disease in any village, the Pradhan shall, subject to the directions or orders of the District Medical Officer of Health or any officer authorized by him in this behalf, have all the powers necessary to stop infected persons or goods from entering or leaving the village, arrange for the compulsory inoculation or vaccination of all persons residing in the village, take charge of polluted food, arrange for the destruction of rats and the evacuation of houses, and do such other acts as may, in the opinion of the Pradhan, be necessary for the control and prevention of the disease.

47-C. [Deleted]

48. Presence of persons other than members in meetings of Gaon Panchayat.—The Group Leaders of *Prantia Rakshak Dal*, having jurisdiction in the area of the *Gaon Sabha* may speak and otherwise take part in the proceedings of *Gaon Panchayat* and any committee thereof under section 12-B of the Act.

SECTION D—PANCHAYAT RAJ

[49. Constitution of functional and territorial committees.]—(1) For the discharge of its functions, a *Gaon Panchayat* may constitute one or more functional committees which will have jurisdiction over the entire area of the *Gaon Sabha*.

(2) If the jurisdiction of a Gaon Panchayat extends to more than one village or hamlet, the Gaon Panchayat may, with the approval of the prescribed authority divide its area into territorial groups consisting of a village or a hamlet or more than one village or hamlet and appoint a committee for each such group, provided it has a population of not less than 100 persons. Such territorial committees can be established in addition to functional committees.

(3) If the jurisdiction of a Gaon Panchayat extends to more than one village or hamlet, the functional committees of the Gaon Panchayat shall have representation from each village or hamlet or groups thereof as may be determined by the Gaon Panchayat.

(4) A Gaon Panchayat shall follow such directions as the prescribed authority may, consistent with the provisions of the Act and these Rules, issue regarding constitution and working of the functional and territorial committees (in this Chapter hereafter called a committee or committees).

(5) A committee shall consist of such number of persons, to be elected by the members of the Gaon Panchayat from amongst themselves and to be co-opted by the said elected members, as the Gaon Panchayat may determine:

Provided that the number of elected members shall not exceed seven and that of the co-opted members shall not be more than two-thirds of the number of the elected members of the committee.

(6) In co-opting members, the elected members of a committee shall follow the directions issued by the prescribed authority under sub-rule (4).

(7) The members of a committee shall hold office for the remainder of the term of the Gaon Panchayat:

Provided that a person elected by the Gaon Panchayat to be a member of the committee shall, on ceasing to be a member of the Gaon Panchayat, also cease to be a member of the committee.

(8) A quorum of at least half the members will be necessary for all meetings of a committee.

(9) Co-opted members shall have the same rights as elected members of a committee, except the right of vote for co-opting a member.

(10) Village level functionaries of the State Government and Zila Parishad as may be notified by the prescribed authority in the official *Gazette* shall be *ex officio* members of such committees to be specified in the notification as [deal]* with the subjects relating to their functions in every Gaon Sabha within their jurisdiction but they shall have no right to vote.

(11) Members of Parliament, State Legislature and Zila Parishad elected from the constituency or area in which the Gaon Sabha is situate, members of Kshettra Samiti of the Block in which the Gaon Sabha is situate, and Government Officers of all departments and officers of Zila Parishad having jurisdiction in the area of the Gaon Sabha may attend the meetings of a committee as observers and address its members and extend their co-operation in the discharge of its duties, but may not vote therein.

(12) A committee may call any member of a Gaon Sabha for consultation and participation only in discussions of a particular subject. It may also invite any officer of the Block Team to participate in its meeting but without having a right to vote.

* Sub. Vide Notification No. 1548 (i)—P./XXXIII—148-59 dated March 29, 1962 Published in the U. P. Gazette dated April 7, 1962.

50. Chairman and Secretary of a Committee—(1) The Pradhan or the Up-Pradhan, as the Pradhan may decide in consultation with the Up-Pradhan will be *ex officio* Chairman of a committee. If there are more than two committees, the Pradhan or Up-Pradhan may be Chairman of more than one committee. The Chairman will also be an *ex officio* member of the committee with a right to vote.

(2) The Chairman shall preside over all meetings of the committee, but in his absence from a meeting of the committee, the members present shall elect one of themselves to be the Chairman of that meeting.

(3) Decisions at the meeting of any committee shall be taken by majority of votes and in case of equality of votes the Chairman shall have a casting vote.

(4) Every committee shall elect an honorary secretary out of its [members].*

(5) The committee shall keep in Form no. 8 a record of its proceedings in Hindi written in Devanagri script. The proceedings shall be recorded by the Secretary and signed by the Chairman of the committee. The record of the proceedings and other records of the committee shall be kept in the custody of the Chairman who shall be responsible for correct recording of the minutes and safe custody of the records.

51. Powers of Committee and Gaon Panchayat—Subject to the general control of the Gaon Panchayat, a committee shall exercise such powers as may be delegated to it by the Gaon Panchayat. The Chairman of every committee shall submit to the Gaon Panchayat a copy of the proceedings of the meetings of the committee with a review of the work done by it. The proceedings shall be read before the next monthly meeting or any subsequent meeting of the Gaon Panchayat which shall, after a review of the work done by the committee, either confirm its decisions or for reasons to be recorded, modify or set aside any decision and pass orders and issue directions to regulate the action, if any, taken in pursuance of such decisions.

Where no financial commitment is involved, action can be taken to carry out decisions of a committee without waiting for confirmation by the Gaon Panchayat.

52. Resignation of Members—(1) A member of a committee with a right of vote may resign his membership of the committee by handing over his resignation in writing to the Chairman of the committee. If the [resignation]** is not withdrawn within a week of its submission, the resigning member shall cease to be a member of the committee after the expiry of the period of one week from the date of submission of the resignation.

(2) A Gaon Panchayat may, by a resolution supported by not less than 2/3rds of the total number of its members, suspend or remove from the membership of the committee any member who has a right of vote.

(3) If a vacancy occurs in the membership of a committee due to death, resignation or removal of a member thereof or due to his ceasing to be a member under sub-rule (7) of rule 49, it shall in the case of an elected member, be filled by election and, in the case of a co-opted member, by co-option of another person in his place in the manner provided in rule 49.

53. Establishment of Joint Committees—(1) A Gaon Panchayat may, by passing a resolution and submitting it to the prescribed authority initiate a proposal for appointment of a joint committee for the purpose of transacting any business in which the Gaon Panchayat is interested jointly with any other Gaon Panchayat or Gaon Panchayats.

* Sub. for [member] Vide Notification No. 1548 (i)—P./XXXIII-148 -59 dated March 29, 1962.
** Corrected Ibid.

(2) A Kshettra Samiti may, by passing a resolution and submitting it to the prescribed authority, initiate a proposal for the establishment of a joint committee [of]¹ more than one Gaon Sabha within its jurisdiction for the purpose [of]* transacting any business in which such Gaon Sabhas are in its opinion jointly interested.

54. Preparation of draft of written instrument—The prescribed authority shall prepare a draft of the written instrument to be executed by the Gaon Sabhas concerned in the event of their deciding to appoint a joint committee and shall send the resolution to the Gaon Panchayat or Kshettra Samiti along with the draft instrument with an explanatory note to the Pradhans of Gaon Sabhas concerned for consideration of Gaon Sabhas within a period to be specified by it. A Pradhan who receives such proposals shall convene an extraordinary general meeting of the Gaon Sabha for this purpose and shall put up the proposals received for consideration of the Gaon Sabha. The Gaon Sabha may accept the proposals, make suggestions for modification of the proposals or raise objections thereto. The resolution of the Gaon Sabha along with its suggestions or objections, if any shall be sent to the prescribed authority by the Pradhan within a week of the passing of the resolution by the Gaon Sabha.

55. Execution of written instrument—(1) The prescribed authority shall finalize the instrument to be executed by Gaon Sabhas if Gaon Sabhas agree.

(2) If any objection, is raised, the prescribed authority shall arrange a meeting of the Pradhans of the Gaon Sabhas concerned and try to iron out differences. This meeting may consider the draft instrument, suggestions and objections received from Gaon Sabhas and may formulate final proposal for reconsideration of the Gaon Sabhas. These proposals shall then be sent by the prescribed authority to Pradhans of the Gaon Sabhas concerned for reconsideration of the Gaon Sabhas. If the proposals are accepted by all Gaon Sabhas, the Pradhans shall execute the written instrument containing agreed proposals but in the event of disagreement the proposals shall be dropped.

56. Meeting for formulating detailed constitution of joint committees.—The Pradhan of the Gaon Panchayat or Secretary of the Kshettra Samiti, which initiated the proposal, shall send a copy of the instrument executed by the Pradhans of the Gaon Sabhas concerned to the prescribed authority. The prescribed authority shall then call a meeting of the Pradhans, of the Gaon Sabhas concerned to formulate detailed constitution of the joint committee. Quorum for such meeting shall be half the number of the Pradhans of Gaon Sabhas which have executed the written instrument. The meeting shall be presided over by the person elected in this behalf by the Pradhan, from amongst themselves. Decisions of such meeting shall be taken by majority of votes and in case of equality of votes the presiding Pradhan shall have a casting vote.

57. Approval of constitution of joint Committees—The constitution of the joint committees passed in the meeting of the Pradhans of the Gaon Sabhas concerned under rule 56 shall be approved by the prescribed authority and after such approval the joint committee shall be deemed to have been established, and shall work according to the constitution.

58. Constitution of Managing committees for Establishment of School etc.—(1) Where a group of Gaon Sabhas are directed by the prescribed authority under section 20 of the Act, to combine for the establishment or maintenance of a primary school, hospital or dispensary, the prescribed authority shall consistent with the provisions of sub-rule (3), take steps for the constitution of a managing committee for such institution and make necessary financial and other arrangements therefor. The constitution of the Managing Committee

*Corrected Vide Notification on I548 (1)—P/XXXIII—148-59 dated March 29, 1962.

so proposed shall be discussed in the meeting of every Gaon Panchayat concerned. The Gaon Panchayats shall submit their views and objections if any to the prescribed authority within one month of the receipt of such proposals. The prescribed authority shall take into consideration the views of the Gaon Panchayats and pass final orders about the constitution of the managing committee and the financial and other arrangements.

(2) The Managing Committee established under sub-rule (1) shall manage and control the institution concerned according to the constitution finally approved and the entire expenditure whether recurring or nonrecurring shall subject to provisions of section 20 of the Act be borne by each Gaon Sabha concerned in such proportion as may be determined by the prescribed authority under sub-rule (1).

(3) In proposing the constitution of a managing committee the prescribed authority shall take into consideration the population of the Gaon Sabhas concerned, contribution payable by each Gaon Sabha and the benefits accruing from the institutions to the various Gaon Sabhas served by the institution. There shall be at least one representative from every Gaon Sabha contributing funds for maintenance of the institution. The representatives for the Managing Committee shall be elected by the respective Gaon Panchayats. A representative may or may not be a member of the Gaon Panchayat, but he should be a member of the Gaon Sabha concerned. The prescribed authority shall also make provision for co-option of members to a managing committee provided that the number of co-opted members shall not be more than 1/2 of the elected members of the managing committee. The co-opted members shall be appointed by a resolution of the elected members of the managing committee by majority of votes. The co-opted members shall have the same rights as other members enjoy except the right to vote for co-opting a member of the managing committee.

(4) The members of a managing committee shall elect a Chairman, a Vice Chairman and an Honorary Secretary out of themselves.

(5) The term of elected members of a Managing Committee shall be till the election of their substitutes by the Gaon Panchayats concerned consequent to the general elections of Gaon Panchayats.

(6) The co-opted members of a Managing Committee shall vacate office on the co-option of their substitutes by the newly elected members of the Managing Committee referred to in sub-rule (5).

(7) The office bearers of a Managing Committee shall cease to hold office on their ceasing to be members of the Managing Committee.

(8) A casual vacancy in the membership of a Managing Committee shall be filled by election or co-option of a new member accordingly as the person whose vacancy is to be filled was elected or co-opted.

(9) The Chairman and in his absence the Vice Chairman shall preside over the meetings of the managing committees. In the absence of both, the Managing Committee shall elect a Chairman for the particular meeting.

(10) The quorum for all meetings of a Managing Committee shall be one-half of the members of the Committee. Decisions shall be taken by a Managing Committee by majority of votes and in case of equality of votes the chairman shall have a casting vote.

(11) The minutes of the meetings of the Managing Committee shall be kept in Form no. 8 written in Devanagri script. The minutes shall be recorded by the Secretary of the Managing Committee and shall be signed by him and the

Chairman, and the proceedings book and other records of the Managing Committee shall be kept by the Secretary of the Managing Committee who shall be responsible for their safe custody.

(12) The Chairman of the Managing Committee may keep such amounts in his personal custody as may be approved by the Managing Committee from time to time. The funds of the Managing Committee shall be kept in the Savings Bank Account at the nearest Post Office and will be operated by the Chairman of the Committee. All the expenditure shall require the sanction of the Chairman and a provision in the budget passed by the Managing Committee.

(13) The meetings of the Managing Committee shall be held at such intervals as the Managing Committee may decide provided that there shall be at least one annual meeting of the Committee to pass the budget of the next year and approve the accounts and progress report of the previous year.

59. Settlement of Disputes.—(1) The Gaon Panchayat shall settle any dispute that may arise about membership or working of a functional committee or a territorial committee and its decision thereon shall be final.

(2) The prescribed authority shall settle any dispute regarding the membership, appointment or working of a Joint Committee or a Managing Committee or regarding the interpretation and observance of the terms of instrument and its decision thereon shall be final.]'

60. Resignation by Pradhan or Up-Pradhan or member or Panch.—
*[***]The Pradhan or Up-Pradhan or member of a Gaon Panchayat or a committee, or a Panch, Sahayak Sarpanch, or Sarpanch wishing to resign his office, may do so by either presenting to the prescribed authority in person or sending to his address by registered post, his written resignation signed by himself and attested by the Panchayat Secretary, and upon so presenting or sending the written resignation the person concerned shall be deemed to have vacated his office.

[**]

*****60-A. Transfer of charge in certain cases.**—(1) Consequent to the taking of office by a Pradhan of a Gaon Sabha or a Sarpanch of a Nyaya Panchayat elected at a general election or reconstitution, as the case may be, their respective predecessors, or the Up-Pradhan or Sahayak Sarpanch acting for the Pradhan or Sarpanch, whose term has expired, shall hand over charge of the office to them.

(2) Any person vacating an office by resignation under rule 60 or by removal under section 95 of the Act or any person suspended under section 95 of the Act shall forthwith hand over charge of his office. The Pradhan shall hand over charge to the Up-Pradhan and vice versa, the Sarpanch to the Sahayak Sarpanch and vice versa, a member of the Gaon Panchayat or Committee to the Pradhan and a Panch to the Sarpanch.

(3) In the absence of the person required to take over charge from a person vacating an office under sub-rule (1) or sub-rule (2), the charge shall be handed over to the Panchayat Inspector, who shall hand over charge to the requisite person in accordance with sub rule (1) or sub-rule (2), as soon as he is available.

(4) In case any of the persons referred to in sub-rules (1) and (2) wilfully neglects or makes default in making over charge, it shall be taken over in the manner aforesaid through police help."

1. Note.—Rules 49 to 59 have been substituted vide Notification No. 397—P./XXXIII—148—59 dated February 28, 1962, published in the U. P. Gazette Part III, dated March 10, 1962, Page 101.

*Sub-rules (2) & (3) of Rule 60, deleted vide Notification No. 759—P./XXXIII—28(2)—1961 dated Feb. 9, 1962, published in U. P. Gazette Extra ordinary dated Feb. 10, 1961.

** Numbering of Sub-Rule (1), of Rule 60 deleted Ibid.

***Rule 60—A Added 'ibid'.

61. [Deleted.]

61-A. The office bearers of Nyaya Panchayats restrained from sitting in the Bench during the election which any of them contests.—(1) If any *Sarpanch*, *Sahayak Sarpanch* or *Panch* of a *Nyaya Panchayat* or any close relation of his intends to stand for election to the House of the People or the State Legislature or to a local body other than a *Gaon Panchayat* or a *Nyaya Panchayat* from any area in which he exercises jurisdiction, the *Sarpanch*, *Sahayak Sarpanch* or *Panch* concerned shall inform the prescribed authority of such intention. The prescribed authority shall immediately take steps to ensure that such *Sarpanch*, *Sahayak Sarpanch*, or *Panch* does not sit in any Bench of the *Nyaya Panchayat* for the disposal of criminal, civil or revenue cases of that area as long as the election lasts.

Explanation—A "close relation" in this rule means father, grandfather, father-in-law, maternal or paternal uncle, son, grandson, son-in-law, brother, nephew, first cousin, brother-in-law, sister's husband, wife, wife's brother, wife's brother's son or nephew.

(2) No *Sarpanch*, *Sahayak Sarpanch* or *Panch* of a *Nyaya Panchayat* shall, in his official capacity, become a member of any organization, association or institution not recognized by Government without previous approval of the prescribed authority.

62. [***] [Deleted]***

62-A. Validity of any act or proceedings.—No vacancy, casual or otherwise, in a *Gaon Sabha* or in a *Gaon Panchayat* or any committee of *Gaon Panchayat* shall vitiate any act or proceedings of a *Gaon Sabha* or a *Gaon Panchayat* or of such committee.

****62-B. [*****]**

62-C. Assistance to Government servants.—The State Government may, under section 21 of the Act, by a special or general order, direct a *Gaon Panchayat* to assist any Government servant in the performance of his duty in the manner specified in the order.

62-D. Information of absence from duty.—A Pradhan or Up-Pradhan of a *Gaon Sabha* or a *Panch*, *Sahayak Sarpanch* or *Sarpanch* of a *Nyaya Panchayat* intending to absent himself from his duty for any reason for a period exceeding 15 days shall inform the prescribed authority in writing of such intention together with the date from which he wishes to be absent and the date on which he is likely to return to take up his duty. The prescribed authority shall if necessary, make such arrangement for the disposal of his work as it thinks fit.

CHAPTER IV**RECORDS AND INSPECTIONS****Rules Regarding the Maintenance of Records and Registers by
Gaon Panchayat and Nyaya Panchayat**

63. Registers and records to be maintained by Gaon Panchayat.—A *Gaon Panchayat* shall maintain the following registers, books and papers and the period of their retention shall be as shown against each—

- | | |
|--------------------------------|------------------|
| (i) Gaon Fund Account Books | ...Twenty years. |
| (ii) Counterfoil Receipt Books | ...Five years. |
| (iii) Proceedings Book | ...Permanent. |

*Deleted Vide Notification No. 397-P/XXXIII 148-49 dated Feb. 28, 1962, published in the U. P. Gazette dated March 10, 1962.

**Deleted Vide Notification No. 759-P/XXXIII-28 (2) 1961 dated Feb. 9, 1961 published in U.P. Gazette Extraordinary dated Feb. 10, 1961.

- (iv) Register showing demand and collection of taxes and other dues ... Ten years.
- (v) Register of correspondence and notices issued by the *Gaon Panchayat* ... Five years.
- (vi) Inspection Book ... Three years.
- (vii) Annual report on the working of *Gaon Panchayats* ... Ten years.
- (viii) Application for copies of records of administrative proceedings ... One year.
- (ix) Application for inspection of records ... One year.
- (x) Forms of Oath taken by Pradhan, Up-Pradhan and members of *Gaon Panchayat* ... Four years.
- (xi) Birth, Death and Marriage Registers ... Permanent.
- (xii) Progress Report of Works ... Five years.
- (xiii) Completion Certificate ... Twenty years
- (xiv) Establishment Register ... Forty years.
- (xv) Office Order Book ... Forty years.
- (xvi) Audit Report ... Forty years.
- (xvii) Report regarding embezzlement ... Forty years.
- (xviii) Service Book and Character Roll ... Five years after retirement of the person concerned.
- (xix) Register of Public Works ... Permanent.
- (xx) Annual Estimate of Income and Expenditure ... Five years.
- (xxi) Register of licences ... Ten years.
- (xxii) Appeals against assessment ... Five years.
- (xxiii) Register of Immovable Property ... Permanent.
- (xxiv) *Gaon Sabha* Register, Parts I and II ... [Five years from the date of preparation of new ones].
- (xxv) Claims and objections to the inclusion of names in the above registers, etc. and decision taken on them ... Three years.
- (xxvi) List of Constituencies ... Ten years.
- (xxvii) Election papers, records results, etc. ... Seven years.
- (xxviii) List of library books ... Permanent.
- (xxix) List of Pradhans, Up-Pradhans, Members and Panches ... Six years.
- (xxx) Any other miscellaneous papers ... Three years or more as may be ordered by District Panchayat Officer.
- (xxxi) Register of Attendance of Members ... Six years.
- (xxxii) Survey and Development Register ... Twenty years.
- (xxxiii) Permanent Advance Register ... Ten years.
- (xxxiv) Paid Vouchers and Bills ... Ten years.
- (xxxv) Stock Book ... Five years.
- (xxxvi) Indent of Forms ... One year.
- (xxxvii) Invoice of records sent ... One year.
- (xxxviii) Applications for copies of records ... One year.

1. Substituted by Notification, No. 3933 P. XXXIII—155 (11)—50 dated Sept. 7, 1961, published in the U. P. Gazette Part III dated 16-9-1961.

64. Registers to be maintained by Nyaya Panchayat.—The following registers shall be maintained by the *Nyaya Panchayat* and the period of their retention shall be as shown against each :

(i) Receipt Books in respect of money separate for civil and criminal cases	... Three years.
(ii) Register of processes and summons issued or sent for service	... Three years.
(iii) Register of Diet Money	... Three years.
(iv) Fine Register	... Three years.
(v) Inspection Book	... Three years.
(vi) <i>Nyaya Panchayat</i> Fund Account Books	... Three years.
(vii) Quarterly returns of criminal, civil and revenue cases	... Three years.
(viii) Application for copies of records	... One year.
(ix) Application for inspection of records	... One year.
(x) Election of <i>Sarpanch</i> and <i>Sahayak Sarpanch</i>	... Six years.
(xi) Forms of Oath by <i>Sarpanch</i> , <i>Sahayak Sarpanch</i> and <i>Panches</i>	... Six years.
(xii) Report regarding delay in disposal of criminal, civil and revenue cases	... Three years.
(xiii) Publication of dates of sittings of <i>Nyaya Panchayat</i>	... Two years.
(xiv) Audit Report	... Forty years.
(xv) Reports regarding embezzlements	... Forty years.
(xvi) Pay Bills	... Three years.
(xvii) Security Bonds	... Five years after they cease to have effect.
(xviii) Service Books and Character Roll	... Five years after retirement of the person concerned
(xix) Paid vouchers and bills	... Ten years.
(xx) Stock Book	... Five years.
(xxi) Proceedings Book	... Twenty years.
(xxii) Annual Estimate of Income and Expenditure	... Five years.
(xxiii) Budget Annual Account	... Ten years.
(xiv) Indent of Forms	... One year.
(xxv) Register of Immovable Property	... Permanent.
(xxvi) Misband register of civil, revenue and criminal cases	... Forty years.
(xxvii) Register of library books	... Until a new one is prepared and certified.
(xxxviii) Other miscellaneous papers	... Three years or more as ordered by District Panchayat Officer.
(xxix) Invoice of records sent	... One year.

65. Additional registers.—In addition to the registers prescribed in the rules, the State Government may, whenever it thinks fit, order the maintenance of any other register or book by a *Gaon Panchayat* or *Nyaya Panchayat*.

66. [Deleted.]

66-A. Place of retention.—(1) All registers, books and connected records of a *Nyaya Panchayat* shall be deposited with the Secretary of the *Gaon Panchayat* six months after they have been closed.

(2) For the purpose of maintenance and destruction of records of civil cases and criminal cases of *Nyaya Panchayat*, the procedure laid down by the Hon'ble High Court for such records of the civil and criminal courts shall be strictly followed.

(3) The records of revenue cases shall be maintained and destroyed according to the provisions laid down in Chapter LIV of the Uttar Pradesh Revenue Manual of the U. P. Board of Revenue.

67. Forms of registers.—The registers, books, returns and forms prescribed herein shall be in the forms appended to these rules, but the State Government may, by a general or special order, make any alterations in or additions to them.

68. Annual report and its contents.—(1) The *Gaon Panchayat* shall submit to the prescribed authority, before the fifteenth day of April of each year, an annual report of their work during the previous financial year. The report shall contain the following information :

- (a) Constitution of the *Gaon Panchayat*.
- (b) A statement showing the grants and contribution and their utilization.
- (c) Taxation showing demand, realization, remission and arrears.
- (d) Income derived from fines other than those levied in criminal cases.
- (e) Income from other sources.
- (f) Expenditure : (a) recurring, and (b) non-recurring.
- (g) Steps taken by the *Gaon Panchayat* during the year under report to carry out the purposes mentioned in sections 15 and 16 of the Act.
- (h) A statement showing the outstanding claims, with an explanation for their non-payment during the year.
- (i) A statement showing the works of construction and major repairs completed during the year in progress, or to be undertaken together with any scheme prepared for future.
- (j) A statement in Form no. 1.
- (k) Any other matter of importance.

(2) The *Gaon Panchayat* shall attach to the report a statement giving an account of its receipts and expenditure during the year supported by a certificate signed by the banker and in case of Post Office account, a certificate by the Pradhan.

69. Quarterly returns of Nyaya Panchayats.—The *Nyaya Panchayat* shall, in the first week of January, April, July and October, submit in the prescribed form, returns regarding—

- (i) Criminal cases to the District Magistrate or any officer authorized by him in this behalf;
 - (ii) Revenue cases to the Sub-Divisional Officer ; and
 - (iii) Civil cases to the Munsif ;
- within whose jurisdiction the *Nyaya Panchayat* concerned lies.

70. Inspection of Gaon Panchayat Office.—Any officer or member of the District Board or any officer or person appointed or authorized by the Government in this behalf may inspect the office of a Gaon Panchayat. The Pradhan of the Gaon Panchayat shall produce before such officer or person all documents, registers, etc., which the latter may require for inspection. The result of the inspection shall be reported to the prescribed authority.

71. Inspection of work, institution or records of a Gaon Panchayat.—Any member or officer of a Gaon Panchayat or of the District Board, any person authorized by the State Government or the District Magistrate in this behalf, and with the previous sanction of the Pradhan or Up-Pradhan, any member of the Gaon Sabha concerned may inspect any work or institution constructed or maintained in whole or part at the expense of the Gaon Panchayat, or any register, book or accounts or other documents belonging to or in the possession of the Gaon Panchayat or of any Committee thereof.

72. Holding of an enquiry.—The Pradhan or any member of a Gaon Panchayat authorised by the Pradhan or any officer authorized by the State Government or the District Board may hold any enquiry in connection with the administration of the Gaon Panchayat and for that purpose summon witnesses through the Nyaya Panchayat having jurisdiction and compel production of any document.

72-A. Registration of marriages.—(1) Any husband and wife wishing to have their marriage registered in the Register of Marriages maintained by a Gaon Panchayat may do so by informing personally the officer charged with the maintenance of the register, the fact of their marriage and giving the particulars required to be filled in the register.

(2) A fee of Re. 1 shall be paid before the marriage is registered.

73. Copies of documents and fees therefor.—Until the records of a Gaon Panchayat have been consigned applications for copies of the records of Gaon Panchayat shall be made to the Pradhan of the Gaon Panchayat. For purposes of the rates of copying fees and the manner of granting such copies, the procedure laid down in rules 107 to 111 shall be followed.

Note—After the consignment of the records, for purposes of the rates of copying fee and the manner of granting such copies, the procedure observed in the District Officer's office shall be followed.

73-A. (1) Before entertaining any application and calling for the records of the Gaon Panchayat in a case in any court at the instance of a party, the authority concerned shall direct the applicant to deposit a fee of rupee one for each record summoned to be credited to the Gaon Fund together with the diet money for the person bringing the records and shall send the amount along with requisition for the required record to the Pradhan of the Gaon Panchayat and shall inform the date on which the record is to be presented in the court.

(2) The Pradhan of the Gaon Panchayat shall, on receipt of the above requisition and notice together with the fee and diet money, either arrange to send the record through some one or personally present the same on due date before the authority calling for the records.

Note—Diet money includes daily allowance and travelling allowance as defined in rules 124 and 125.

74. Proceedings and records open to inspection.—Subject to the rules here-in-after contained, all judicial records of Nyaya Panchayats and administrative proceedings of the Gaon Panchayats shall be open to inspection.

75. Inspection of pending judicial records.—The record of a criminal, civil or revenue case which is pending or which has been decided but the record of which has not been deposited in the office of the Gaon Panchayat may be inspected by a party thereto free of charge.

Any person other than the parties concerned desiring to inspect such records, shall obtain the permission of the Chairman of the Beach before whom the criminal, civil or revenue case is pending, or of the Sarpanch of the Nyaya Panchayat if it has been decided, by presenting an application stating therein the nature of the interest for the protection of which inspection is sought. On permission being granted, inspection shall be allowed on payment of the inspection fee laid down in rule 77. The records of a pending criminal, civil or revenue case include the records of a decided criminal, civil or revenue case called for in connection with a pending case.

76. Inspection of deposited records.—The inspection of records deposited in the office of the Gaon Panchayat shall be allowed with the permission of the Secretary on payment of an inspection fee.

77. Inspection fee.—The inspection fee shall be annas four for the first hour and annas two for any subsequent hour or fraction thereof for every record inspected. The fee chargeable under this rule shall be paid in cash with the application for inspection to the Pradhan or Sarpanch, as the case may be, who shall credit it to the Gaon Fund and shall forthwith give a receipt under his signature in the prescribed form.

78. Place and time for inspection.—The inspection under rule 75 shall be made in the office of the Nyaya Panchayat and that under rule 76, at the place where the records are for the time being in deposit.

79. Maintenance of inspection Book.—A book called the Inspection Book in form no. 11 shall be kept by each Gaon Panchayat and Nyaya Panchayat. Every person desiring inspection shall fill in the particulars in columns one to four of the Inspection Book.

80. General restrictions and directions for inspection.—The use of pen and ink during inspection is strictly prohibited. Pencil and paper may be used for making any notes or copies from the record or paper inspected. The inspection of the records shall be noted on the record or paper inspected. The inspection of the record shall be noted only in the presence of an officer of the Gaon Panchayat or Nyaya Panchayat as the case may be.

81. Inspection of administrative proceedings.—All administrative proceedings of a Gaon Panchayat will be open to inspection at the direction of the Pradhan. The procedure laid down for the inspection of judicial records shall be followed if the inspection is allowed.

81-A. [Deleted].

82. Limitation for writing off of fines: Jurisdiction of a Nyaya Panchayat.—If any amount of fine imposed by a Gaon Panchayat in an administrative case or by a Nyaya Panchayat in a judicial case is irrecoverable, it may be written off by the Gaon Panchayat and Nyaya Panchayat concerned: provided that if the amount of such fine in any case exceeds rupees five it shall not be written off without the previous sanction of the prescribed authority in case of a Gaon Panchayat or of the superior court in case of a Nyaya Panchayat.

82-A. All arrears of sums becoming due to the Gaon Sabha under section 99 of the Act may be recovered as arrears of land revenue.

U. P. PANCHAYAT RAJ RULES

CHAPTER V—Nyaya Panchayat
Its Constitution and procedure

83. Appointment of Panches of Nyaya Panchayat—(1) The Sub-Divisional Officer shall issue a notice inviting proposals for appointment of Panches from amongst the members of the Gaon Panchayats within the circle for a Nyaya Panchayat. The notice shall specify the date, time and place for receipt of proposal.

(2) The publicity of the notice issued under sub-rule (1) shall be given by pasting its copies on the notice boards of the offices of the District Magistrate, District Panchayat Officer, Sub-Divisional Officer, Tahsildar, Block Development Officer, Panchayat Inspector and Panchayat Secretary. Copies of the notice shall also be sent to all the Pradhans of Gaon Panchayats in the circle for the Nyaya Panchayat for giving information to the members of their respective Gaon Panchayats.

(3) A member of the Gaon Panchayat may propose the name of another member of the Gaon Panchayat possessing the qualifications prescribed in rule 85 for appointment as a Panch of the Nyaya Panchayat.

The proposals shall be accompanied by the written consent of the candidate in his own handwriting in the following form in Hindi:

(FORM)

TO

The District Magistrate,

SIR,

I am a member of Gaon Panchayat in Gaon Sabha situated in the Nyaya Panchayat circle _____ block _____. I am thirty years/more than 30 years of age. I have studied upto class _____. I can read and write Hindi in Devanagri script. I am willing to be appointed as a Panch. I have the following experience in the Nyaya Panchayat work in the past. _____

I have rendered the following services to the community in Planning and Development work _____

If I am appointed a Panch of the Nyaya Panchayat _____ I shall administer justice without fear or favour and shall discharge my duties truthfully and honestly.

Signature _____

Father's name _____

Occupation _____

Address _____

Dated _____

Certified that the entries above are made in my own hand writing and the facts mentioned are correct to the best of my knowledge.

Signature _____

Date _____

(4) A Gaon Panchayat may also propose by a unanimous resolution one or more names from amongst its members possessing the qualifications prescribed in rule 85 for appointment as Panch/Panches of the Nyaya Panchayat, and send the same to the Sub-Divisional Officer together with the written consent of the candidate/s in the aforesaid form in his/their own handwriting.

(5) All the proposals received shall be scrutinized by the Sub-Divisional Officer who will prepare lists of candidates Gaon Panchayat-wise. He will make

confidential enquiries about the suitability of the candidates for appointment as Panches of Nyaya Panchayats and record his opinion and recommendations in respect of every candidate in the following form and forward the same to the District Magistrate.

Name of Gaon Panchayat				Nyaya Block		
Serial no.	Name	Father's name	Address	Occupation	Age	Remarks about suitability.
1	2	3	4	5	6	7

(6) There shall be as many advisory committees in a district as is the number of the constituencies of the State Legislative Assembly in that district. The opinion and recommendations of the Sub-Divisional Officer under sub-rule (5) shall be considered by the advisory committee which will consist of—

- (a) The District Magistrate Chairman.
- (b) The Chairman of the Antarim Zila Parishad/Zila Parishad Member.
- (c) M. L. A./s within whose constituency the Nyaya Panchayat is situate Do.
- (d) M. L. C./s residing within the area of the constituency Do.

(7) On receipt of the opinion and recommendations under sub-rule (5) the District Magistrate shall convene a meeting of the advisory committee at a place, time and date fixed for the purpose. The notice of the date, time and place also fixed shall be sent to each member well in advance so that he may attend the meeting conveniently.

(8) The District Magistrate shall pass orders regarding the appointment of Panches of Nyaya Panchayats after taking into consideration the recommendations of the Advisory Committee and any other material that may come to his notice and using his own discretion. He shall, however, give due weight to the unanimous proposals of the Gaon Panchayats.

(9) If qualified persons willing to be appointed as Panch are not forthcoming from any Gaon Panchayat in the required number the Advisory Committee may recommend any member of Gaon Panchayat concerned for exemption from all or any qualifications prescribed for a Panch.

(10) The District Magistrate may, where necessary, pass orders relaxing any prescribed qualifications.

(11) Orders of appointment of Panches of Nyaya Panchayats shall be issued under the signatures of the District Magistrate and sent to the persons concerned, the Piadhans of the Gaon Panchayats concerned, the Sub-Divisional Officer, the District Panchayat Officer, the Panchayat Inspector/Assistant Development Officer (Panchayat) and Panchayat Secretaries concerned.

(12) The orders of the District Magistrate about the appointment of Panches shall be final and shall not be called in question for any defect in the observance of the procedure laid down in this rule."]*

*Rule 83 is inserted by notification no. 3258-p XXX-56-61 dated 29.8.61., Published in the U.P. Gazette Part 111 dated September 9, 1961.

83-A. Election of Sarpanch and Sahayak Sarpanch.—(1) The period within which the Panches of a Nyaya Panchayat shall elect from amongst themselves two persons as the Sarpanch and the Sahayak Sarpanch shall be one month unless specifically extended by the State Government from the date on which the appointment of Panches of the Nyaya Panchayat under section 43 is completed.

(2) The District Magistrate shall appoint a date, time and place for the meeting of Panches to elect Sarpanch and Sahayak Sarpanch and shall give notice of the meeting to each Panch.

(3) An officer not below the rank of the Naib-Tahsildar to be nominated by the District Magistrate, shall preside at the meeting but shall have no right of vote thereat.

(4) Half the number of members of a Nyaya Panchayat fixed under rule 3-E shall form the quorum for the meeting.

Provided that where the number of the Panches of a Nyaya Panchayat is odd and quorum determined in accordance with this sub-rule comes to a fraction of number, then the fraction shall be rounded into a whole number for purposes of determining the quorum, e.g. if the number of Panches of the Nyaya Panchayats is eleven then the quorum will be formed by six Panches.

(5) Vote shall be given by writing the name of the candidate for whom the elector wishes to vote on the ballot paper or chit duly stamped or signed by the Presiding Officer and supplied to the elector, which after writing the name of the candidate shall be handed over to the Presiding Officer and the same must not be signed by the elector.

(6) If only one candidate is proposed and seconded for the office of Sarpanch or Sahayak Sarpanch, he shall be deemed to be elected, but if more than one candidate are proposed and seconded for any such office, vote shall be taken by the Presiding Officer and the candidate obtaining the largest number of votes shall be deemed to be elected.

(7) If upon the counting of the votes, an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected under sub-rule (6) the Presiding Officer of the meeting shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

(8) *Disposal of Election Papers.*—All papers relating to the election of Sarpanch and Sahayak Sarpanch except the election returns shall be destroyed after a period of one year from the date of declaration of the result of election subject to any directions to the contrary given by the Director of Elections or the Director of Panchayats or by a competent Court or Tribunal. The election returns shall be retained till the termination of the next general elections and shall thereafter be destroyed subject to any directions to the contrary given by a competent authority.

83-B. [In any dispute regarding election of a person as Sarpanch or Sahayak Sarpanch the provisions of rule 26, shall *mutatis mutandis* apply].

84. Constitution of a Bench.—(1) (a) For the disposal of cases and inquiries coming up before the Nyaya Panchayat, the Sarpanch shall, subject to any directions issued by the Director of Panchayats in this behalf, constitute Benches consisting of five panches each. The Benches so constituted shall be known as Bench no. 1, Bench no. 2 and so on,

(b) At the end of each year the Benches may be reconstituted in such manner as the Director of Panchayats may direct provided that any case already heard in part by a Bench be disposed of by that Bench.

[(c) If at any time the number of appointed Panches is not divisible by five, a Panch may be appointed as a member of two benches, provided that when the vacancy is filled up by the regular appointment of a Panch, the Panch so appointed shall be substituted in one of the two benches in accordance with the instructions of the Director of Panchayats, Uttar Pradesh.]*

(2) **[****]The distribution of cases between the Benches shall be made by allotting cases to Benches in serial order, i. e., the first case shall be allotted to Bench no. 1 and the second case to Bench no. 2, and so on.

Provided that where there are cross cases, they shall be allotted to and tried by the same bench.

[Provided further that in case where a Panch, Sarpanch or Sahayak Sarpanch cannot take part under the provisions of section 49 (3) of the Act the same shall be transferred to the next bench by the Sarpanch.]*

(3) Where the Sarpanch or the Sahayak Sarpanch is a member of any Bench constituted under this rule, he shall be the Chairman of the Bench and in other cases the Panches constituting the Bench, shall by majority opinion nominate one of themselves to be the Chairman of the Bench :

Provided that whenever a Chairman of any Bench has remained absent for a period exceeding 15 days the remaining Panches shall by majority opinion, elect one of themselves to be the temporary Chairman of the Bench till the return of the Chairman.

(4) Where by reason of disagreement among the Panches constituting a Bench, it becomes impossible for them to give a decision by the opinion of the majority, ***[the Sarpanch shall transfer the case to the next Bench which will re-hear the case and decide the same.

85. Qualification of Panches.—A person shall not be qualified to be appointed a Panch of a Nyaya Panchayat unless he—

- (a) is able to read and write Hindi in Devanagri Script, and
- (b) is thirty years or over in age.

***[**86. Oath of office**—(1) Every Pradhan and member of a Gaon Panchayat and every Panch of a Nyaya Panchayat, shall as soon as may be after the constitution of the Gaon Panchayat or Nyaya Panchayat as the case may be, take oath of office before and at the place and time which may be fixed for the purpose by the Block Development Officer, Assistant Development Officer, Assistant District Panchayat Officer, Panchayat Inspector, Tehsildar, Naib-Tehsildar or any other officer or officers appointed by the District Magistrate in this behalf. The oath, so administered, will be in the following manner :

*Added Vide Notification No. 3258/XXXIII—56—61 dated August 29, 1961 . Published in the U. P. Gazette Part III—Dated Sep. 9, 1961.

** Deleted Ibid.

*** Subs. Ibid.

**** Substituted Vide Notification No. 759—P/XXXIII—28 (2) 1961 dated Feb. 9, 1962, Published in the U. P. Gazette Extraordinary dated Feb. 10, 1962,

OATH

I.....(name).....do swear that I will bear true faith and allegiance to the Constitution of India as by law established and that I will do right to all manner of people and faithfully discharge my duties as Pradhan/Panch of Nyaya Panchayat/member of the Gaon Panchayat without fear or favour, affection or ill-will. So help me God.]

87. Nyaya Panchayat, time and place of its meeting.—A Nyaya Panchayat shall hold its sittings at such time and place and in such central village as may be fixed by the prescribed authority.

87-A. [Deleted.]

88. Duration of sitting of Nyaya Panchayat.—A Nyaya Panchayat shall sit as many days in a month as may be comparable for the speedy disposal of work or as may be determined by the prescribed authority.

89. Every case shall ordinarily be finally disposed of within six weeks of its institution or its transfer to the Nyaya Panchayat. If it is not decided within this period, the Nyaya Panchayat shall record reasons for delay in the quarterly return submitted to the prescribed authority.

90. Sittings to be notified.—The date on which the Nyaya Panchayat shall ordinarily sit in a month shall be notified in the third week of the preceding month by affixing a list of such dates at the office of the Nyaya Panchayat.

91. A weekly list of cases to be notified with names of parties and the dates on which they are to be heard shall be prominently displayed outside the office of the Nyaya Panchayat for general information.

***91-A.** In case of absence of all the members including the Chairman of a bench of a Nyaya Panchayat, on the date fixed for the hearing of any case, the Sarpanch, and in his absence, the Sahayak Sarpanch shall fix a date for the hearing of such case or cases, and inform the parties concerned and the members of that bench accordingly.

92. No fee for enquiring date of hearing.—No fee shall be charged from a party or witness for enquiring orally or by application the date fixed for the hearing of his case.

93. Application under section 75.—The Sarpanch, Sahayak Sarpanch or the Panch receiving the application under section 75 of the Act shall, in regard to a civil case, record its description and valuation, and in the case of a criminal case, the nature of the offence and, if possible, particulars of the matters mentioned in section 59 of the Act.

94. [Deleted.]

95. Examination of parties and their witnesses.—(1) At the hearing of a civil or revenue case, a Nyaya Panchayat may first examine the parties to ascertain their cases and to find out what the points of difference between them are. In taking evidence the Nyaya Panchayat shall first examine the plaintiff or the applicant and his witnesses and afterwards the defendant or the objector and his witnesses as the case may be. While trying a criminal case, the Nyaya Panchayat shall first explain to the accused the charge or charges made against him and record the prosecution evidence and then examine the accused and record the evidence in defence:

Provided that if in a criminal case an accused makes a clear and voluntary confession of the crime, he shall be convicted without recording any evidence

*Rule 91-A added by notification No. 5790-P./ XXXIII 723-57 dated 31-3-58.

while in a civil or revenue case if the claim of the plaintiff or the applicant is totally admitted by the other party, it will not be necessary for the Nyaya Panchayat to record any evidence.

(2) Each party shall be allowed to cross examine the other party except an accused and the witnesses produced just after their examination-in-chief, but the Nyaya Panchayat may, either of its own motion or on the request of any party, examine any person at any stage of the proceedings before passing final orders, and in such a case, each party shall be entitled to put questions to the person so examined.

(3) Before examining any person except an accused a Nyaya Panchayat shall administer him the following oath, if the person is willing to make an oath in any other form to which peculiar sanctity is attached in the locality, then in such other form;

"I shall state the truth, and nothing but the truth. So help me God".

95-A. [Deleted].

95-B. Restoration of application.—If an application under section 85 [or 89]* of the Act is dismissed for default, the court may, on an application made within one month of the date of the dismissal order or knowledge thereof for sufficient reasons to be recorded in writing, restore the same.

96. [Deleted]

97. Inquiry into a question of title or right.—In matters involving a question of title or right under the personal law of the party, the Nyaya Panchayat shall make only a summary enquiry and shall not enter into intricate questions of title based on civil and personal laws. In case of any doubt or difficulty, it may make reference to Sub-Divisional Officer, having jurisdiction and shall act thereafter according to his directions.

98. Return of documents.—If any document is produced before a Nyaya Panchayat, it shall be noted and endorsed by the Nyaya Panchayat. Documents other than those on which a case is based shall be returnable after the final disposal of the case to the parties filing them.

99. Examination of women on commission.—(1) If a woman as a party or witness wants herself to be examined by the Nyaya Panchayat on commission, her representative acting under section 81 of the Act, or the party desiring to examine her as witness shall make an application to the Nyaya Panchayat in that behalf, and if so ordered by the Bench, the representative or the party concerned shall deposit conveyance charges or arrange for a conveyance for the Sarpanch, Sahayak Sarpanch or a Panch of the Bench of the Nyaya Panchayat. Thereupon the date and the time shall be fixed by the Chairman of the Bench the information of which shall be given by him to the parties and the woman concerned in advance. The Panch of the Bench whom the Chairman of the Bench may have directed in that behalf shall examine the woman at her residence in the same manner as if she were appearing before the Nyaya Panchayat and take record of the statement made by her.

(2) The statement of the woman so recorded shall be signed or thumb-marked by the woman and attested by at least one identifying witness and shall form the part of the case.

99-A. Issue of Commission.—(i) The Sarpanch of a Nyaya Panchayat may issue commission to any District Magistrate or Sarpanch of a Nyaya Panchayat having jurisdiction over the area for the examination of any witness if he considers that the examination of the witness is necessary in the ends of the

*Added vide notification No. 5635-P/XXX111-348-58 dated Nov. 30, 1961 and Published in the U.P. Gazette part III dated Dec. 9, 1961.

justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable.

(ii) The District Magistrate or the Sarpanch receiving the commission may nominate any official subordinate to him not below the rank of a Naib Tahsildar or a Bench of Nyaya Panchayat, and such official or Bench *[as the case may be] shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner as a witness and may for this purpose exercise the power of a Nyaya Panchayat.

(iii) The parties to the case in which a commission is issued may respectively submit any interrogatories in writing, with the Sarpanch directing the commission may think relevant to the issue, and he shall forward such interrogatories along with the commission; and the District Magistrate or the Sarpanch to whom the commission is directed or to whom the duty of executing such commission has been delegated shall examine the witness upon such interrogatories.

(iv) Any such party may appear before such District Magistrate or Bench either personally or through any friend or relation who has been duly authorized in this behalf and may examine, cross-examine, and re-examine as the case may be, the said witness.

(v) After a commission has been duly executed, it shall be returned together with the deposition of the witness examined thereunder to the Sarpanch who issued it; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party and shall form part of the record.

(vi) In every case in which a commission is issued the proceedings may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

(vii) An order for the issue of a commission for the examination of a witness may be made by the Nyaya Panchayat either of its own motion or on the application supported by affidavit, of any party to the case or of the witness to be examined.

(viii) Before issuing a commission, the Nyaya Panchayat may order such sum, if any, as it thinks reasonable for the expenses of the commission, to be paid to it by the party at whose instance or for whose benefit the commission is issued within such time as may be fixed.

100. Judgment, order or decree.—After ascertaining the facts of the case by examining the parties, their witnesses and the documents produced, if any, and by any other lawful means in its power, the Nyaya Panchayat shall record a brief judgment and the final order over the signature of the Panches. The judgment shall be read in the open court and signature or thumb-impression of the parties present will be taken on it as far as possible, which shall form part of the record. The judgment, and if the case is a civil or revenue case, a decree in the prescribed form (Form no. 24) shall be drawn up in terms of the judgment.

101. Disposal of cases pending on death of any party.—If during the pendency of a criminal case, other than a police case, either the complainant or the accused dies, the case shall abate, but if during the pendency of a civil or revenue case any party dies the legal representative of the said party shall be made a party to the case subject to the Provisions of section 67 of the Act.

102. Payment of fine or compensation.—The fine imposed or the compensation granted by a Nyaya Panchayat shall be paid to the Sarpanch, the

*The words 'as the case may be' inserted by notification No. 270-P-XXXI11-699 dated Sept. 10-57.

Secretary or a Pan ch duly auotorised by Sarpanch in this behalf, and he shall give a receipt for the a mount in the prescribed form.

103. Language of Nyaya Panchayat.—The language of the Nyaya Panchayat and of all its records and registers shall be Hindi in Devanagri Script.

104. Seal of the Nyaya Panchayat.—Every Nyaya Panchayat shall have a seal inscribed with its name, and shall use the same on all processes, orders and copies issued by it.

105. Court-fee.—The following fees in cash shall be charged by the Nyaya Panchayat before entertaining any case :

<i>Civil cases.</i>	<i>Fee to be charged</i>
When the amount or value of the subject in dispute does not exceed Rs. 10	... 25 n.P.
When it exceeds Rs. 10 but does not exceed Rs. 25	... 50 ,,
When it exceeds Rs. 25 but does not exceed Rs. 50	...One Rupee.
When it exceeds Rs. 50 but does not exceed Rs. 200	...Rupee one and 25 n.P. plus 25 n.P. for every ten rupees or part thereof in excess of Rs. 50.
When it exceeds Rs. 200	...Rupees four and 50 n.P. plus annas four for every ten rupees or part thereof in excess of Rs. 200.
(ii) Criminal complaints	... 50 n.P.
(iii) Miscellaneous applications in a case	... Two Ans.
(iv) Any other application not otherwise provided for in these rules	... Two Ans .
(v) Revenue case	...Rupee one.
(vi) Application for setting aside an <i>ex parte</i> decision.	...Rupee one.

Provided, firstly, that the Nyaya Panchayat may, for reasons to be recorded in the Register for criminal cases, waive off the payment of a fee in a criminal case :

Provided, secondly, that where a Nyaya Panchayat decides that it has no jurisdiction, it shall return the fee paid by the applicant, together with the application if in writing :

Provided, thirdly, that fees in civil cases under section 82 of the Act shall be charged at a flat rate of 50 n.P. for every ten rupees or part thereof :

Provided, fourthly, that in no case a Nyaya Panchayat shall charge fees exceeding Rs. 100 :

Provided, fifthly, that in the Kumaon Division, Jaunsar Bhabar Pargana of Dehra Dun District, and portion lying south of the Kaimur Range of Mirzapur District, the fees shall be charged at twice the rates prescribed above :

Provided, sixthly, that no fee shall be charged in a revenue case when patwari, Lekhpal or any other superior officer of the Revenue Department, files any report or initiates any proceedings:

Provided, seventhly, that no fee shall be charged on a complaint or a process issued on the complaint or application of an officer or servant of a local authority when acting in that capacity.

106. [Deleted]

107. Application for copy of records and fee thereon.—An application for obtaining a copy of the records of a Nyaya Panchayat before the consignment of such records under these rules shall be made to the Sarpanch of the Nyaya Panchayat and shall be accompanied with a fee of two annas.

108. Copying fee—(1) Copying fees shall be charged at the rate of five annas or ten annas for every 200 words and fraction thereof according as the copy applied for is ordinary or urgent but the Nyaya Panchayat may, for special reasons grant to an accused upon his conviction a copy of its order free of costs.

(2) Half the copying fee charged for supplying a copy shall be paid to the person preparing the copy in case he is not an employee of the Gaon Sabha or the Nyaya Panchayat concerned.

(3) Urgent copies shall ordinarily be delivered to the applicant within 24 hours of the receipt of the application.

109. Payment of fee in advance.—While making an application for a copy, the applicant shall pay a sum likely to cover the copying fee, but if at any time it is found that the sum so paid falls short of the copying fee under rule 108, the applicant shall be required to pay the deficiency before the delivery of the copy to him.

110. Preparation and delivery of the copy.—The Sarpanch shall get the copy applied for prepared on plain paper, certify it a true copy under signature and seal, and deliver it to the applicant or his duly authorized agent and also refund to him the balance, if any, left out of the sum paid under rule 108 after meeting the copying fee.

111. Credit and disbursement of fees—(a) All the fees chargeable under rules 105, 107 and 108 shall be paid in cash to the Sarpanch who shall forthwith give a receipt under his signature in the prescribed form for each fee received.

(b) A Nyaya Panchayat shall maintain a Nyaya Panchayat Account in Form no 6-A in respect of all income received in the form of fees, fines, contributions from Gaon Sabhas etc. and all expenses incurred by it.

(c) All sums realized by way of court fees or fines in a case triable under the Act shall be deposited by the Sarpanch in the personal ledger account of the Nyaya Panchayat as soon as the total of such fees and fines exceeds at any time Rs. 25.

(d) The District Panchayat Officer shall transfer to the credit of the State Government on the 15th day of October and of April in each financial year the whole amount then in deposit in the personal ledger account of the Nyaya Panchayat under sub-rule (c) and out of the sums so credited transfer to the Gaon Sabhas concerned in equal shares such sums as the State Government may determine under sub-section (2) of section 39 of the Act.

(e) Any balance in the Nyaya Panchayat Account left on the 1st April in any year shall be disbursed in equal shares by the prescribed authority.

to each Gaon Sabha situated within the circle of the Nyaya Panchayat concerned :

Povided that the amount to be disbursed after the close of a year shall be the outstanding of the balance of the year previous to the 1st April.

112. Every summons or notice issued by a Nyaya Panchayat shall be in duplicate and in the prescribed form (Form no. 4). It shall specify the time, date and place at which the person is required to attend and also whether his attendance is required as an accused, a defendant, a judgment-debtor or other party or a witness, and whether for the purpose of giving evidence or to produce a document or for other purposes. If any particular document is to be produced, it shall be prescribed in the summons or notice with reasonable accuracy. The price of the summons shall be pices six each and it shall be realized from the party on whose behalf the summons is issued.

113. Summons to produce a document.—Any person may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce it.

114. Persons exempted from attendance in court not to be summoned.—No Nyaya Panchayat shall summon to appear before it, for the purpose of giving evidence, persons who according to the custom of the country or under the provisions of the Code of Civil Procedure, 1908, are exempted from personal attendance in Court.

115. Service of summons.—If the person on whom the summons or notice is to be served resides within the jurisdiction of the Nyaya Panchayat, the procedure outlined in rules 117 and 118 shall be followed.

116. Service fee.—If the summons or notice is to be served at the instance of a party, the Nyaya Panchayat shall except in a criminal case initiated by a police officer or a revenue case initiated by a Lekhpal or an officer of the Revenue Department, recover a fee of eight annas per summons or notice from that party. The fee shall be credited to the Nyaya Panchayat Account and paid to the process server at the rate of annas four per summons or notice. In the hill districts of the Kumaon Division, the Jaunsar Bhabar Pargana of Dehra Dun and the portion of Mirzapur District lying south of the Kaimur Range, the fee shall be charged at double the above rate.

117. Person charged with process-serving.—The summons or notice shall ordinarily be served by a chowkidar or process-server, but the Sarpanch or Panch who directs its issue may, in his discretion, cause it to be served by any other person.

118. Method of service within jurisdiction.—The summons or notice shall be served by delivery to the person concerned whose signature or thumb impression shall be taken on the duplicate. If the person concerned cannot be found or if it appears that he is evading service, the Sarpanch, Sahayak Sarpanch or a Panch may order that the summons or notice may be served on an adult male member of the family residing with him, or affixed in presence of two witnesses to some conspicuous part of the house in which the person ordinarily resides. The summons and notice shall thereupon be deemed to have been served on the person concerned.

In case the summons or notice cannot be served in the manner contemplated as above, or as provided under rule 120, the Nyaya Panchayat may cause it to be published in a newspaper having local circulation. On publication

the summons or notice shall be deemed to have been served on the person concerned.

119. Diet money.—No diet money shall be paid to any person who resides within the jurisdiction of the Nyaya Panchayat.

120. Method of service outside jurisdiction.—If the person to be summoned by a Nyaya Panchayat in a case resides outside its jurisdiction, the Nyaya Panchayat shall send the summons, by post or otherwise, to the Nyaya Panchayat or the Court within whose jurisdiction the person on whom it is to be served resides and such Nyaya Panchayat shall cause it to be served as if it were its own summons and shall return the duplicate to the Nyaya Panchayat concerned. If the person summoned is a witness, the Nyaya Panchayat shall require the person at whose instance the summons is to be issued, to deposit diet money payable to the witness under these rules before the summons is issued. The amount of the diet money shall be noted on the summons and shall be paid to the witness on his appearance.

121. Procedure of summons issued under rule 120.—A summons issued by a Nyaya Panchayat of its own motion under rule 120 shall be sent to the Nyaya Panchayat or the court concerned, by post or otherwise, and shall contain a note that it has been issued by the Nyaya Panchayat of its own motion and that diet money shall be paid by the Nyaya Panchayat to the witness on his appearance.

122. Diet money from Nyaya Panchayat Account.—When a Nyaya Panchayat summons a witness of its own motion and such witness resides beyond its jurisdiction, it shall pay diet money to the witness out of the Nyaya Panchayat Account.

123. Refusal to summon a witness.—A Nyaya Panchayat may refuse to summon a witness if in its opinion, his attendance cannot be procured without any amount of delay, expense or inconvenience, which, in the circumstances, would be unreasonable.

124. Diet money defined.—Diet money consists of—

- (a) daily allowance, and
- (b) travelling expenses,

and is intended to reimburse witnesses for the reasonable expenses incidental to their attendance before the Nyaya Panchayat.

125. Rates of daily and travelling allowances.—Daily allowance and travelling allowance shall be paid at the following rates by the Sarpanch considering the status of the witness:—

- (i) Daily allowance—Annas 12 to Rs. 1/8/- per day.
- (ii) Travelling allowance for a journey by road—Actual expences incurred up to a maximum of six annas a mile.
- (iii) Travelling allowance for a journey by rail—One and a half railway fare at 1¹/₂ or 1¹/₂ class rate.
- (iv) If a servant or officer of the Government or a local body is summoned as a witness, his daily and travelling allowances shall be governed by the rules of the Government or the local body as the case may be. If there are no rules for any local body in this connexion, the daily and travelling allowances shall be determined by the Nyaya Panchayat.

126. Register of diet money and issue of receipts.—Whenever diet money is deposited, the Nyaya Panchayat shall give a receipt to the person depositing it and shall forthwith enter in the register of diet money (Form No. 9) the name of the depositor and the amount deposited. On Payment of

the diet money to a witness or its repayment to the depositor, the Sarpanch or Panch in whose presence the amount is paid shall sign the register of diet money.

127. Powers of investigation.—The Nyaya Panchayat or any Panch thereof duly authorized in this behalf may, for ascertaining facts conducive to the proper disposal of a case or reference, enter upon any land or building at any time between sunrise and sunset after giving twenty-four hour's notice to the occupier, or when there is no occupier, to the owner of such land or in his absence, his representative. If the land or building is in the occupation of persons who according to the custom of the country, do not appear in the public, due notice may be given to them to withdraw.

128. Execution of decrees.—(1) The holder of a decree or order may put in an application for its execution on payment of one-fourth share of fee payable for the institution of the original suit before the Nyaya Panchayat which passed the decree. The fee so paid shall be included in the costs.

(2) If the property of the defendant or opposite party against whom the execution application has been presented is not situated outside the jurisdiction of the Nyaya Panchayat, it shall issue a notice to defendant or opposite party requiring him to comply with the decree or order within 30 days of the receipt of notice. If the decree is not complied with within the said time or such further time not exceeding three months as the Nyaya Panchayat may deem fit to allow, it shall forward the decree or order for execution in accordance with the provision of sub-section (2) of section 93 of the Act.

(3) If the property of the defendant or opposite party against whom the execution has been presented is situated outside the jurisdiction of the Nyaya Panchayat, it may either itself proceed in the manner laid down in sub-rule (2) above or transfer the decree or order for execution as provided in sub-section (1) of section 93 of the Act by sending a copy of the execution application together with a copy of the decree or order after endorsing the words "transferred for execution to designation of transferee". The Nyaya Panchayat or the Munsif or the Sub-Divisional Officer, as the case may be, to whom the decree or order is transferred for execution shall issue a notice to the defendant or opposite party in the manner provided in sub-rule (2) above. If the decree or order is not complied with within the period specified in the notice or within such further time not exceeding three months as may be allowed further, if the notice was issued by a Nyaya Panchayat it shall act under sub-section (2) of section 93 and if it was issued by a Munsif or a Sub-Divisional Officer then the Munsif or Sub-Divisional Officer, shall execute the same as if it were a decree or order passed by him.

[4) The munsif to which a decree is sent for execution shall certify to the Nyaya Panchayat which passed it the fact of such execution or where a munsif fails to execute the same the circumstances attending such failure.]¹

128-A. (1) Before entertaining an application under section 85 or 89 of the Act and calling for the record of a case from a Nyaya Panchayat at the instance of any party, the authority concerned shall direct the applicant to deposit a fee of rupee one and annas eight together with money order charges for this purpose and shall send the amount along with a requisition for the required record to the Sarpanch of the Nyaya Panchayat concerned.

(2) The Sarpanch shall, within a week of receipt of the above requisition and fee, send the required record either by registered post acknowledgment due or by any other means to the authority concerned :

Provided that the record of a case called for by an authority concerned of its own motion, shall be sent to it at the cost of the Nyaya Panchayat within a week of the receipt of its requisition.

128-B. 128-C. [Deleted.]

1. Added vide notification no. 1102-8/XXXIII-126-6 dated Sept. 16, 1960.

CHAPTER VI

Maintenance, Acquisition and Transfer of Property

129. Application for acquisition of land.—When any land is required by a Gaon Sabha to carry out any purpose of the Act, and it is desired to be acquired for the Gaon Sabha then—

- (a) if the aquisition is sought to be made through the Collector, the application for aquisition shall be made by the Gaon Panchayat in Form No. 41, and
- (b) if aquisition is sought under the U. P. Rural Development (Requisition of Land) Act, 1948, the application shall be made by the Gaon Panchayat in accordance with the provisions of section 6 of that Act.

130. Transfer of immovable property vested in the Gaon Panchayat.—The Gaon Panchayat shall not transfer otherwise than by way of lease without a premium any immovable property vested in it, except with the previous approval of the Commissioner on such conditions as he may approve, in case its value exceeds two thousand rupees, and in other cases with the sanction of the Collector, on such conditions as he may impose.

131. Scale map of land.—In cases where the sanction of the Commissioner or the Collector is required for the transfer of property vested in the Gaon Panchayat, the Gaon Panchayat shall report the proposal in Form No. 23 to which a scale map in duplicate of the land and surroundings shall be attached.

132. Lease without premium.—In case of a lease without premium transferring immovable property vested in the Gaon Panchayat, a reasonable annual rent shall be reserved and made payable during the whole term of the lease, and the lease or any agreement to grant the lease shall not be made without the previous sanction of the Gaon Panchayat by a resolution :

Provided that when the term of the lease exceeds ten years, but not thirty years, the previous sanction of the Collector, and when the term exceeds thirty years, the previous sanction of the Commissioner shall also be obtained.

133. Lease by auction or tender.—The Gaon Panchayat shall not ordinarily transfer property vested in it by lease except by auction or after inviting tenders. In cases where public tenders have not been invited, the Gaon Panchayat shall record its reasons for entertaining a private offer and the method adopted by it in fixing a fair rent.

134. Approval of Collector or Commissioner.—When these rules require the previous approval of the Collector or the Commissioner to a transfer of property vested in the Gaon Panchayat, any instrument whereby the transfer is effected should record the fact of the approval of the Collector or the Commissioner having been obtained.

135. Nazul Land.—The maintenance and management of nazul land shall be governed by rules framed by the State Government for the District Boards.

136. Register of immovable property.—A Gaon Panchayat shall maintain a register, in Form No. 13 of all immovable property other than the nazul (including trees) which is vested in or placed under the management of or is held by the Gaon Panchayat on lease.

137. Separate entries for different kinds of property.—The property vested in, or placed under the management of and held by the Gaon

Panchayat on the lease shall, respectively, be entered in separate parts of the register.

138. Periodical examination of the register.—The Gaon Panchayat shall periodically, but not less than once a year, cause the register to be examined and verified by the prescribed authority and the examining officer shall be required to certify that the record is correct.

139. Transfer.—No immovable property vested in or belonging to a Gaon Panchayat shall be transferred by sale, gift, mortgage, or exchange except on the resolution of a Gaon Panchayat and with the sanction of the prescribed authority.

140. Contract for work or supply or collection of any article.—All contracts, whether for execution of any work or supply of any article, shall be sanctioned by the Gaon Panchayat, and if the value of the contract exceeds Rs. 50, the contract shall be sanctioned only after calling for tenders and shall be in writing and signed by the Pradhan and one other member of the Gaon Panchayat.

CHAPTER VII

Rules Governing Sanitation, etc.

141. Application of municipal bye-laws governing sanitation, etc.—The prescribed authority, with the previous consent of the Gaon Panchayat concerned may, and, if required by the State Government, shall apply with necessary modifications the provisions of the U. P. Municipalities Act and Rules, regulations and bye-laws framed thereunder within the jurisdiction of the Gaon Panchayat for purposes mentioned in clause (XVI) of sub-section (2) of section 110 of the Act.

142. Registration of births and deaths.—(a) A Panchayat shall undertake registration of births and deaths and the reporting of epidemic diseases and for that purpose shall comply with all orders of the Public Health Department, the District Board and the State Government.

(b) A Gaon Panchayat shall maintain register of births and deaths in Form D for every village situated in its jurisdiction and the Pradhan and the Secretary of the Gaon Sabha shall be responsible for its correct maintenance.

143. Reports of births and deaths.—The head of the family or in his absence any other member thereof shall report birth or death occurring in his family within three days of the occurrence at the latest to the Secretary or Pradhan or Up-Pradhan of the Gaon Sabha concerned and the officer receiving the report shall give a receipt of the same to the reporter. Any person who fails without sufficient cause to make a report under this rule shall be punishable by a Nyaya Panchayat with a fine which may extend to rupees five only.

144. Chowkidar to report birth and death.—It shall be the duty of a chowkidar to report to the Pradhan or in his absence the Up-Pradhan or the Secretary of the Gaon Sabha every birth or death occurring in the area assigned to him by the Gaon Panchayat within two days of the said occurrence.

145. Discovery and destruction of water hyacinth.—A Gaon Panchayat may, and when required by the residents of the area concerned undertake discovery, removal and destruction of water hyacinth, grass, weed or other wild growth on any land, premises or water as well as construction of fences and barriers to check its movement, and may recover its cost from the residents of the locality concerned unless the local residents arrange for free labour for the purpose.

145-A. (1) A Gaon Panchayat may undertake the burial of dead animals where the owner thereof fails to do so within six hours of their death.

(2) Where the Gaon Panchayat Acts as aforesaid—

- (a) it may arrange for the skinning of the carcass prior to burial ;
- (b) the owner of the animal shall pay to it the expenses of the burial as may be specified and within the period to be fixed by the Gaon Panchayat in a written notice to the owner.

(3) If the owner pays the expenses of burial within the period specified, or within such extended period as the Gaon Panchayat may allow, the sale proceeds of the skin shall be paid to him ;

(4) If the owner fails to pay the expenses of burial, within the period specified or within such extended period as the Gaon Panchayat may allow, the Gaon Panchayat may appropriate the sale proceeds of the skin towards them, provided that where the expenses of burial are in excess of the sale proceeds of the skin, such excess shall be recoverable from the owner in the manner provided for the recovery of fines :

Provided also that where the expenses of the burial are less than the sale proceeds of the skin, the excess amount shall be refunded to the owner of the dead animal.

Explanation.—The word "skin" used in this rule may include bones, horns etc. as directed by the Gaon Panchayat.

146. Power to exercise conservancy and other sanitary measures.—(1) Whenever a Gaon Panchayat undertakes the control and administration of, and to be responsible for, the conservancy of its area, it may exercise any of the following powers :

The Gaon Panchayat may—

- (a) construct public latrines and arrange for the cleaning of public and private latrines ; and charge fee for the use of the public latrines and cleaning private latrines ;
- (b) require, by notice, the owner or occupier of any building or land to construct private drains therefor ;
- (c) erect permanent boundary marks around the village-site at a distance of not less than 50 yards from the outermost houses and to prohibit defecation, except by infants or sick or infirm persons, at any place within those limits other than a latrine ;
- (d) prohibit dyeing or tanning of skin within 220 yards of the village-site :

Provided that if the dyeing or tanning was practised at the time of the establishment of the Gaon Panchayat, it shall not be prohibited unless the prescribed authority for reasons to be recorded, otherwise directs—

- (e) subject to the provision of rule 145-A, regulate the disposal of carcasses of animals dying within its area ;
- (f) regulate or prohibit the establishment of brick-kilns and the making of hay stacks within the village or within 50 yards of the village-site ;
- (g) prohibit the keeping of the pigs within the limits of the village-site without proper sites or enclosures to confine them ;
- (h) regulate or prohibit offensive trades [as in section 298 (2) (G) of the U. P. Municipalities Act] being carried out within 220 yards of village-site ;

- (i) regulate or prohibit deposit or storage of manure, refuse or other offensive matter in a manner prejudicial to public health, comfort or convenience.

Note.—Digging of compost pits within or near *abadi* is not prejudicial to Public Health, comfort or convenience provided that necessary instructions of Public Health Department for making of compost are followed, but such pits should not be within the cone of filtration of drinking water wells.

(ii) If any notice under sub-rule (1) requires any act to be done, it shall fix a reasonable time for doing the same.

147. Power of water supply.—Whenever a Gaon Panchayat undertakes the control and administration of, and to be responsible for, the water supply of its area, it may exercise any of the following powers :

The Gaon Panchayat may—

- (a) acquire by purchase, gift or otherwise any spring, tank, well, stream or watercourse and provide facilities for obtaining water therefrom ;
- (b) construct, repair and maintain public springs, tanks and wells and provide for the cleaning thereof and of streams and watercourses at suitable intervals ;
- (c) prohibit during epidemic the use of any watercourse for drinking, for washing domestic utensils, for washing clothes, or for watering cattle ;
- (d) notify the setting apart of any watercourse for drinking, for washing domestic utensils, for washing clothes and for performing funeral obsequies if and where necessary or for watering cattle and prohibit for all acts likely to pollute the course so set apart ;
- (e) prohibit throwing of corpse into streams or watercourses ;
- (f) disinfect, during the prevalence of epidemics, courses of drinking water supply.

148. Penalty for disobedience.—Any person who disobeys a general direction or special order issued by the Gaon Panchayat under rule 146 or rule 147 shall, on conviction by the Nyaya Panchayat, be punishable with a fine which may extend to Rs. 10, for the first offence or for any subsequent offence.

149. Notice for sanitary measures.—(1) The Gaon Panchayat may decide at a meeting to give notice to a person with regard to all or any of the matters specified in section 18 of the Act. After this decision is passed, the notice shall be issued in writing and signed by the Pradhan or any member of the Gaon Panchayat. It shall be in duplicate and it shall be served on the person concerned through the village chowkidar or by any other person deputed by the Gaon Panchayat. The person to whom the notice is tendered shall acknowledge receipt thereof in writing and either sign it or put his thumb-impression on it. In case he refuses to accept the notice or evades service thereof, the facts shall be noted by the serving officer, and the notice returned to the Gaon Panchayat.

(2) **Payment to the village chowkidar for service.**—When the Gaon Panchayat employs a village chowkidar to serve notice under this rule, it shall along with the notice tender to the chowkidar a fee of two annas per notice, and such fee shall be charged to the Gaon Fund.

150. Acknowledgment of notice.—Every person refusing to give an acknowledgment in token of a notice issued under the Act or these rules shall be punishable by the Nyaya Panchayat with a fine which may extend to ten rupees.

CHAPTER VIII

Preparation of Projects and Execution of Works
Rules for the preparation of plans and estimates for works in Gaon
Panchayat and the execution of works and conditions of sanction.

151. Works classified.—For the purpose of these rules, works shall be classified as below :

- (a) A petty work is a work, the cost of which does not exceed Rs. 2,000.
- (b) A minor work is a work, the cost of which exceeds Rs. 2,000 but does not exceed Rs. 7,500.
- (c) A major work means a work, above Rs. 7,500 in value.
- (d) All the above classes of works will be termed as "Ordinary" or "Health" works according to the category under which they come. The term "Health Works" shall include town planning schemes, sewerage and drainage schemes, water-works, slaughter-houses, markets, model lodging houses, houses, hostels ; hospitals, dispensaries, *sarais*, bathing ghats, latrines and the like and others shall be deemed to be "Ordinary."

A work which is partly "Ordinary" and partly "Health" may be placed entirely in one or the other class as may seem desirable, but the decision of District Medical Officer of Health as to the proper classification of the work shall be final.

152. Preparation of plans and estimates.—The plans and estimates for a work may be prepared.—

- (a) in general.—

- (1) by a servant of the Gaon Panchayat, provided the cost of the work does not exceed Rs. 1,000 ;
- (2) by an authorized technical assistant, by a subordinate of the Engineering Department of the District Board with the permission of its President or by a qualified overseer, or a technically qualified private practitioner approved by the prescribed authority, where the cost of the work exceeds Rs. 1,000 but did not exceed Rs. 7,500 ;
- (b) in the case of major works, by the Public Works Department or the Chief Engineer, Local Self-Government Engineering Department, if the work is Health Work, or a consulting Engineer of proper standing approved by Government.

153. Procedure of preparation and forecast of cost.—(a) The Gaon Panchayat may get the plans and estimates of a petty and minor work prepared by any of the agencies under rule 152 (a).

(b) In the case of major works the prescribed authority shall forward a forecast of cost obtained from District Board or private agency, and if such is not available, then from the Public Works Department or if the work be a "Health Work" from the Chief Engineer, Local Self Government Engineering Department, to the Gaon Panchayat for consideration. If the Gaon Panchayat accepts it the prescribed authority shall call for a final project from any of the agencies mentioned above.

154. Approval of plans and estimates of petty works.—(a) The plans and estimates of a petty work, the cost of which does not exceed Rs. 500 may be finally approved and sanctioned by the Gaon Panchayat

itself, such approval or sanction being formally recorded in the proceedings of Gaon Panchayat.

(b) The plans and estimates of work, the cost of which exceeds Rs. 500 shall, in the first instance, be approved by the Gaon Panchayat by a formal resolution and thereafter submitted to the prescribed authority for sanction.

155. Projects financed by loans and grants.—(a) The plans and estimates of a petty or a minor Health Work, after being approved by the Gaon Panchayat by a formal resolution, shall be forwarded to the prescribed authority for approval.

(b) In the case of major works it is necessary to have forecast of cost prepared in the first instance and submitted to the State Health Board through the prescribed authority with Gaon Panchayat's proposals for a grant of loan, in order to ascertain if the required assistance would be forthcoming. After the approval of the State Health Board has been obtained to the forecast of cost, the final or detailed project shall be submitted to the State Health Board through proper channel for administrative sanction and allotment of funds.

156. Sanctions of projects and provision of funds absolutely necessary.—The work shall not commence until—

- (1) the project and the plans and estimates have been sanctioned in accordance with these rules, and
- (2) provision of funds has been made in the budget and passed by the Gaon Sabha.

157. Petty works executed by Gaon Panchayat.—(a) All works costing not more than Rs. 500 may be executed by the Gaon Panchayat itself or by any of the agencies mentioned in rule 152 (a), either by daily labour or contract.

(b) **By approved agencies.**—All works above Rs. 500 shall be executed and measured, subject to the provisions of rule 152 by the agency approved by the prescribed authority which shall pass the measurements for payment.

(c) **By Public Works Department.**—If a major work is entrusted to the Public Works Department, or the Chief Engineer, Local Self-Government Engineering Department, the work shall be executed, measured and paid for by the department concerned.

158. District Board Authorities.—(a) All petty, minor and major works executed by the Gaon Panchayat as laid down in rule 157 (a), (b) and (c) shall be open to inspection by the President of the District Board and its members and officers authorized by him and other officials empowered by Government.

(b) In the case of works which are wholly or partly assisted by the State Government or the State Health Board, it shall be open to the Chief Engineer, Local Self-Government Engineering Department, or his staff to inspect such works.

159. Renewed sanction after three years for unexecuted works.—Each administrative sanction shall hold good for only three years from its date. If the Gaon Panchayat desires to execute the work after the sanction has expired, it shall apply for renewed sanction.

160. Fees for projects for "Health" works, etc.—(a) No fees shall be charged for a forecast.

(b) The fees payable for a preliminary project shall be 1/4 per cent of the total estimated cost, subject to a minimum charge of Rs. 25, in the case of a simple tube-well project and Rs. 50, in the case of other "Health" project. If a final project is subsequently prepared, the fee paid for the preliminary project shall be deducted from the fee payable for the final project.

(c) The fee payable for a final project shall be calculated in accordance with the following scale :

Estimated cost	When no surveying or levelling is done	When surveying or levelling is done
Upto Rs. 20,000	... One percent	Two percent.
Above Rs. 20,000	... Half percent	One percent.

Provided that when a survey or record of levels already in existence can be utilized in the preparation of projects, but further surveying or levelling if found necessary, the Chief Engineer, Local Self-Government, Engineering Department, shall certify the existing survey or record of levels is partly useful and may reduce the fee in proportion to the extend by which the cost of surveying or levelling is reduced by the use of the existing survey or record of levels.

(d) When a preliminary or final project is revised no fee shall be charged for such revision, if merely the cost of the estimate is revised in accordance with charged rates or prices, nor if the estimate is reduced shall any refund be made of any portion of the fee already paid. But when the project itself is modified, the Chief Engineer, Local Self-Government Engineering Department, shall fix the fee payable for such modification.

(e) The fee payable for the construction of "Health" works shall be calculated in accordance with the following scale :

Drainage works upto R. 20,000	5	per cent of .the actual cost
Drainage works over Rs. 20,000 but not exceeding Rs. 50,000	4	ditto
Drainage works over Rs. 50,000	3	ditto
Electric supply works	6	ditto
Water supply works other than tube wells	6	ditto
Tube wells entirely constructed by a contractor under lump sum contract.	6	ditto
Other Tube wells	5	ditto
Other Health works upto Rs. 20,000	5	ditto
Other Health works over Rs. 20,000	4	ditto

161. Fees for projects for "ordinary" works by Public Works Department.—The scale of the fees for preliminary of final projects and for construction of ordinary works by Public Works Department shall be as follows :

	Percent
(a) For the preparation of detailed plant and estimates	2
(b) For the supervision of works	2
(c) For the execution of works including supervision	7

162. Quarterly reports of progress in prescribed form to Chief Engineer, Local Self-Government Engineering Department.—A Gaon Panchayat which has received from the State Government, direct or through the State Health Board, a grant or loan for a waterworks or other health works estimated to cost Rs. 3,000 or more shall submit to the Chief Engineer, Local Self-Government Engineering Department, through the District Officer, a report of the progress of the work in the form appended to these rules for each quarter of the financial year until the work is completed. The Gaon Panchayat shall submit the report on the 10th day of the month following the end of the quarter,

163. Progress report to District Officers.—In the case of water works or health works estimated to cost less than Rs. 3000 for which a grant or loan has been received, the Gaon Panchayat shall submit a report to the District Officer annually in the form mentioned in rule 162 until the completion of the work. The report shall be submitted not later than April 15 in each year and before May 1, in each year to the District Officer concerned who shall submit to the Chief Engineer, Local Self-Government Engineering Department, a statement showing the amount of grant sanctioned, the amount spent during the year, the unspent balance, if any of the grant at the end of the year, the reason of delay if the work has not been taken in hand or completed and a certificate to the effect that the amount has not been taken in hand or completed and a certificate to the effect that the amount has been properly utilized.

164. On the completion of water works or health works for which a grant or loan of Rs. 3,000 or over has been received, the Gaon Panchayat shall, within three months, report the completion of the work of the Chief Engineer, Local Self Government Engineering Department, and shall further, within six months, submit a completion certificate in the form appended to these rules. In the case of works costing less than Rs. 3,000 these reports and certificates should be submitted to the District Officer.

FORM REFERRED TO IN RULE 162

Progress report of aided works, carried out by agency of
for the quarter
ending

1. Name of Gaon Panchayat
2. Name of work
3. Amount of estimate Rs.
4. Description

5. Sanctioning resolution of Gaon Panchayat No.
and date.

6. Sanctioning resolution of the Board of Public Health
(Agency employed to be specified)

No. date

7. Allotment from the State fund.
 - (a) Grant Rs.
 - (b) Loan Rs.

8. Expenditure to the end of previous quarter ending
Rs.

9. Expenditure during the quarter ending Rs.

10. Expenditure to date Rs.

11. Expenditure as per programme Rs.

12. Unspent balance, if any, Rs.

13. State of work

14. Date of commencement of work

15. Date of completion according to programme

16. Date of actual completion of work

17. Remarks (reasons of delay etc.)

Register (No. of project

(To be filled in the Chief Engineer's office)

Form of certificates of completion of work referred to in rule 163.

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FORM NO

CHIEF ENGINEER, LOCAL SELF-GOVERNMENT ENGINEERING DEPARTMENT

Form of completion Certificate

1. Name of Gaon Panchayat
2. District
3. Name of work
4. Sanctioning resolution of Gaon Panchayat No. _____ date _____
5. Sanctioning resolution of the Board of Public Health No. _____ date _____
6. Sanctioned amount Rs. _____
7. Actual expenditure Rs. _____
8. Unspent balance, if any, Rs. _____

We hereby certify that the work described above was completed on the day of 19 _____ and that there has been no material deviation from the sanctioned plans and specification other than those sanctioned by competent authority.

Secretary, Gaon Panchayat.

President, Gaon Panchayat.

Dated

Dated

No.

No.

Submitted to the Chief Engineer, Local Self-Government Engineering Department, Uttar Pradesh, for information.

Dated

*District Officer,
President Gaon Panchayat.*

CHAPTER IX

Appointment, etc. of Servants

165. Officers and servants, their salaries, allowances and duties.—

(1) Every Gaon Panchayat shall maintain a list of officers and other servants except the Secretary on its establishment, together with the salaries and allowances payable to their holders, as also the names of persons holding these posts and salaries and allowances which are being drawn by them.

(2) Subject to the provision in the budget, the Gaon Panchayat may, from time to time, by resolution, create new post(s) or abolish any existing post(s) and determine the salary and allowances to be paid to holders of newly created post(s).

(3) The Gaon Panchayat may, from time to time, determine the duties to be assigned to the various posts on its establishment.

(4) The Gaon Panchayat may, on a post falling vacant or a new post being created, make appointment to fill it as it thinks fit :

Provided that no person who is below the age of 21 years or above the age of 45 years at the time of appointment, or who is not domiciled in the Uttar Pradesh or who or whose relation is a member of the Gaon Panchayat or Nyaya Panchayat exercising jurisdiction in the Gaon Sabha concerned with the appointment, shall be appointed to any post other than a post of menial servant.

(5) A copy of resolution passed by the Gaon Panchayat under sub-rule (4) shall be sent to the prescribed authority for information.

*Explanation.—*The word "relation" in the proviso means father, grand-father, father-in-law, maternal or paternal uncle, son, grand-son, son-in-law, brother, nephew, first cousin, brother-in-law, sister's husband, wife, wife's brother, son or nephew.

166. 167. [Deleted.]

168. Appointment of Panchayat Secretary.—(1) The State Government may, by a general or special order, direct that only one Secretary may be appointed for one or more Gaon Panchayats on a scale of pay and other conditions to be fixed by the Government.

(2) The prescribed authority shall have power to transfer, suspend or remove, dismiss or to take other disciplinary action against the Secretary who shall be subject to the provisions contained in Schedule V in respect of punishment and appeals.

168-A. Interest of the Backward classes and Reservation for Scheduled Caste candidates.—(1) The interest of the backward classes shall, in general, be kept in view while making appointment.

(2) There shall be a general reservation of 18 per cent of the vacancies for members of Scheduled Castes in making appointments to services and posts in connection with the administration of Gaon Panchayat :

Provided that if in any one year, candidates of Scheduled Castes fail to be recruited to any such service or post in connection with the administration of Gaon Panchayat to the extent of 18 per cent, the deficiency shall be made good in the recruitment to the service or post concerned in the following year :

Provided further that the reservation on account of the deficiency shall not be carried forward for more than one year.]

169. Duties of Secretary.—It shall be the duty of the Secretary,—

(1) to comply with and see that all provisions of the Act and rules and bye-laws made thereunder and all orders, issued or authorized by the State Government or the prescribed authority are complied with by the Gaon Panchayat and Nyaya Panchayat and shall bring to their notice any irregularity or omission on their part ;

(2) to carry out orders of the Gaon Panchayat and the Pradhan or Up-Pradhan, passed by or under the Act, and to perform any other duties and to exercise any other powers assigned to or conferred on him by or under the Act or any other law ; and

(3) to exercise the supervision and control of servants of Gaon Panchayat.

170. Qualifications of staff.²—[The appointment and other conditions of service of Panchayat Secretaries shall be governed by the rules contained in Schedule VI.]

171. The punishment and the right of appeal of servants of Gaon Panchayat including Secretary shall be regulated by the provisions in Schedule V of these rules.

172. [Deleted.]

173. The order of the Secretary passed in exercise of the powers delegated to him under section 25 (3) shall be appealable to the Gaon Panchayat within 15 days of the date when the order concerned is communicated to the servant.

174. Determination of period of office of a servant.—The Period of office of a servant of the Gaon Panchayat and the Nyaya Panchayat shall not be determined until—

1. The new title of Rule 168-A, 'Interest of the backward classes and reservation for Scheduled Castes candidate' is substituted by notification no. 2700—XXXIII 639-56 dated 10-9-57.

2. Substituted by notification no. 3255-P-XXX 293-53 dated 1-9-57.

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- (a) his resignation has been accepted in writing by the authority competent to appoint his successor ; or
- (b) he has given such authority [xxxx]¹ one month's notice ; or
- (c) he has paid or assigned to [the authority that pays him the salary]² a sum equal to one month's pay ; or
- (d) he has been given by the authority competent to appoint his successor [x x x x x]³ one month's [notice or a sum equal to one month's]⁴ pay in lieu of notice.

175. Leave and officiating arrangement.—The grant of leave to servants of the Gaon Panchayat and Nyaya Panchayat and the amount of remuneration to be paid to the persons, if any, appointed to act for them whilst on leave, shall be regulated by the rules governing non-gazetted Government servants :

Provided that the casual leave to servants other than the Secretary shall be granted by the Secretary if authorized by the competent authority in this behalf, and casual leave to the Secretary shall be granted by the prescribed authority, while privilege and other leave to all servants of the Gaon Panchayat or Nyaya Panchayat shall be granted by the prescribed authority.

'175-A. 5] (1) No person who has more than one wife living, shall be eligible for appointment to a post under the Gaon Panchayat or Nyaya Panchayat :

Provided that the Gaon Panchayat or Nyaya Panchayat, as the case may be, may, if satisfied that there are special grounds for exempting any person from the operation of this rule refer the matter to the prescribed authority whose decision shall be final.

2. No female candidate who has married a person having already a wife shall be eligible for recruitment to a post under Gaon Panchayat or Nyaya Panchayat :

Provided that the Gaon Panchayat or the Nyaya Panchayat as the case may be, may, if satisfied that there are special grounds for doing so, exempt any female candidate from the operation of this rule with the approval of the prescribed authority".]

176. Retention and retirement of employees.—⁶[(1) (a) The age of retirement from service of all employees of Gaon Panchayat or Nyaya Panchayat shall be 55 years beyond which no one shall ordinarily be retained in the service of the Gaon Panchayat or Nyaya Panchayat.

(b) Extensions of service, may, however, be allowed up to the age of 60 years, for special reasons to be recorded by the Gaon Panchayat or Nyaya Panchayat in the relevant resolution or where the Gaon Panchayat or Nyaya Panchayat is not itself the appointing authority by the appointing authority in its order :

-
- 1. In clause (b) the words 'at least' deleted by notification no. 95-P-XXXIII-359-57 dated January 8, 1959.
 - 2. In clause (c) the word 'authority that pays him the salary' substituted by notification no. 95-P-XXXIII-359-57 dated January 8, 1959.
 - 3. In clause (d) the words 'not less than' deleted by notification dated 8-1-59.
 - 4. In clause (d) the words in bracket added by Ibid.
 - 5. Added by notification no. 1273-P-XXXIII-231-57 dated 27-3-58.
 - 6. Substituted by notification no. 6264-P-XXXIII-552-57 dated June 18, 1958.

Provided that no extension shall be granted—

- (i) for a period exceeding one year at a time, and
- (ii) unless the employee concerned continues to be physically fit and efficient.]

(2) On or before September 1, in each year, a list shall be prepared in the appended form of all employees in the service of the Gaon Panchayat and Nyaya Panchayat whose age on April 1, next following will exceed (58) years.

(3) The list shall be considered by the Gaon Panchayat at a meeting or in the case of employee whose appointment is in the hands of another authority by such authority, and definite orders shall be passed by the Gaon Panchayat.

List of employees whose age during the financial year will exceed 55 years.

No.	Name of Officer	Designation	Salary	Age on March 31, next	Length of service on March 31, next	Remark and recommendation as to retention by the submitting authority on retirement
1	2	3	4	5	6	7
Y. M. D. Y. M. D.						

177. Provident Fund.—If the system of Provident fund is adopted by any Gaon Panchayat, it shall follow rules and regulation framed in this behalf for the guidance of District Boards, subject to such modification as may be made by the prescribed authority.

CHAPTER X

THE CUSTODY AND ADMINISTRATION OF THE GAON FUND

178. Maintenance of Gaon Fund and its transaction.—(1) The administration of the Gaon Fund shall be in the hands of the Gaon Panchayat subject to the general control of the prescribed authority.

(2) All money transactions to which any member of the Gaon Panchayat or Nyaya Panchayat or any officer or servant of the Gaon Panchayat in his official capacity is a party, shall without any reservation be brought to account and all the money shall be credited in full to the Gaon Fund with the exception of authorised advances.

(3) Money due to the Gaon Panchayat shall be collected either by payment at the Panchayat Office or by out-door collections, or by both methods, as the prescribed authority may direct. Receipts for all moneys received shall be issued by the persons authorised to receive the money.

(4) Accounts of all income and expenditure of the Gaon Fund [and the Nyaya Panchayat] shall be maintained by the Pradhan [and the Sarpanch]¹ in Form No. 6 [xxx].² The account shall be closed and balanced at the end of every month and shall be examined and passed by the Gaon Panchayat at a meeting in the next following month.

179. Cash balance.—(1) Except as provided in rule 193 the cash balance of the Gaon Fund shall be kept in the State treasury or after the approval of the prescribed authority, in Saving Bank Account of the nearest Post Office or a neighbouring co-operative bank.

(2) The money shall be deposited into and withdrawn from the personal ledger accounts in the manner specified by the State Government, by a general or special order.

180. Sanction to expenditure from Gaon Fund.—The Gaon Panchayat may sanction expenditure out of the provision made in the Annual Estimate of Income and Expenditure up to the amount actually in hand for any legitimate purpose.

181. Requisition for withdrawal.—Money shall not be paid from the Gaon Fund, except on a requisition for withdrawal signed by the Pradhan or such other officer as may be appointed by the Gaon Panchayat in this behalf.

182. Instructions for maintaining of accounts.—In matters of details connected with accounts, Gaon Panchayat and Nyaya Panchayats shall be guided generally by the instructions of the Director of Panchayats, the Chief Audit Officer to Government, Co-operative Societies and Panchayats, Uttar Pradesh, and the Deputy Chief Audit Officer (Panchayats), Panchayat Audit Organisation, Uttar Pradesh.

183. Persons debarred from collection or book keeping.—No person employed in the business of bank or banker with whom the Gaon Fund is deposited shall be requested or permitted to assist in any way in collecting the revenue of a Gaon Fund or posting the books of a Gaon Fund.

184. Language of accounts and care of account books.—The figures in accounts and registers shall be written in Hindi. The account books and registers should be strongly bound and pages should be numbered before being brought into use.

185. Attestation of corrections.—Corrections and alterations in the account shall be neatly made in red ink and attested by the person making the correction or alteration. Alterations and corrections in a voucher shall be authenticated by the payee and in the cash-book by the Pradhan or such other officer as may be appointed by the prescribed authority in this behalf. Erasures and overwriting shall on no accounts be permitted in registers, statements, cheques, vouchers, or accounts of any description.

186. Audit.—The audit of the accounts of every Gaon Panchayat and every Nyaya Panchayat shall be arranged for by the prescribed authority under orders of the Chief Audit Officer to Government, Co-operative Societies and Panchayats, Uttar Pradesh at such intervals and in such manner as the State Government may direct.

187. Steps of disposals of audit note.—After each audit of the account by the Chief Audit Officer to Government, Co-operative Societies

¹ Added vide notification No. 664—P/xxxiii—28—61 dated February 12, 1962 published in the U. P. Gazette Part III dated Feb. 24, 1962.

² The words [and by the Sarpanch in form 6-A] deleted ibid.

and Panchayats, Uttar Pradesh, the Pradhan shall deal promptly with the objection statement, which is appended to the audit note. The Pradhan shall also, within a month after the receipt of the note, convene a special meeting of the Gaon Panchayat to consider the objections made by the Auditor and to decide upon the action to be taken in regard thereto. The action so taken shall be indicated on an inter-leaved copy on the margin of the audit note. An annotated copy shall be sent to the prescribed authority, as promptly as possible and in any case within three months of the date of receipt of the notice another annotated copy shall be kept and produced for the information of the inspecting officers at next visit.

188. Treatment of embezzlement.—(1) Whenever an embezzlement of money belonging to the Gaon Fund is discovered by the Pradhan or any other official, the fact of embezzlement shall be immediately reported by him to the prescribed authority who will then inform the District Magistrate, the Director of Panchayats and the Chief Audit Officer to Government, Co-operative Societies and Panchayats, Uttar Pradesh.

(2) The prescribed authority on receiving the report under sub-rule (1) shall forthwith institute an inquiry into the embezzlement.

189. Pay bills establishment.—(1) A pay bill of the establishment shall be prepared from the establishment list of permanent staff referred to in Form No. 16, with full details of names and shall show separately in column 3, the salary and leave allowance claimed for each person for the month, whether actually drawn or not, and in column 4, any amount not drawn but held over for subsequent payment, Column 5, shall be used to show the amount actually drawn for each emcumbent. When salary is drawn for a portion of the month only the rate at which it is drawn and the number of days for which it is claimed shall be stated against the names of the employees into the body of the bill. The pay of temporary establishment shall be billed for separately and the sanction quoted. Arrear pay shall not be drawn in the ordinary monthly bill, but in separate bill with quotation of the bill from which the charge was omitted or withheld.

Travelling allowance shall be drawn as a contingent charge.

(2) The bill or a copy of it shall also be used as an acquittance roll, and the receipt of such person shall be taken thereon when the pay is distributed to the staff.

190. Security from employee entrusted with custody of money or property.—(a) Every employee entrusted with the expenditure or custody of money or property of the Gaon Fund shall be required to furnish security for an amount to be fixed by Gaon Panchayat in each instance with due regard to the responsibility of the office.

(b) The amount of security shall generally be equal to the maximum amount which the employee may have in his hands at any time, and the Secretary shall see that the amount of cash left in the hands of the employee never exceeds the amount of security taken from him.

(c) In the case of every employee affected by this rule a security bond shall be executed in Form No. 2-B or 2-D, appended to Financial Handbook, Volume V, Part I. These bonds and the security deposited by the employee shall be kept in such custody as the District Magistrate may determine and shall be retained until one year has elapsed after the employee has vacated the office.

(d) The securities shall be examined and verified by the 1st of April in each year by the Pradhan or in his absence such member of the Gaon Panchayat as is appointed in this behalf by a resolution of the Gaon Panchayat and a certificate to the effect that this has been done shall be given by the verifying officer against each item.

191. Service books and character rolls.—(1) Service books and character rolls in the prescribed form shall be kept for the permanent employees of a Gaon Panchayat, other than bhisties, lamp lighters, sweepers and conservancy cart-drivers.

Annual entries.—(2) At the end of every financial year, the Pradhan and Sarpanch shall make entry regarding the work and character of the servants whose rolls they maintain. They shall also enter therein any remarks of censure, punishment, commendation or reward passed by any competent authority during the course of the year :

Provided that the service-book and character roll of the Secretary shall be maintained by the appointing authority, who shall at the end of each year, enter remarks about the work and integrity of the Secretary after consulting the Pradhan and Sarpanch concerned. He may, in special circumstances, record his opinion even without such consultation.

192. [Deleted.]

193. The Pradhan and in his absence the Up-Pradhan or such member of the Gaon Panchayat as is appointed in this behalf by a resolution of the Gaon Panchayat may hold a sum not exceeding Rs. 25 or larger sum as the prescribed authority may fix to meet petty and emergent expenses.

194. Annual acknowledgment.—The Pradhan, Up-Pradhan or member of the Gaon Panchayat holding any amount of Gaon Fund shall, on the 1st of April in each year, sign an acknowledgment that amount is due from, and to be accounted for by him.

195. [Deleted.]

196. Payment and adjustment of advance.—In emergent cases, when the amount in hand of the Pradhan is not sufficient for the payment of works carried out by daily labour, purchase of materials, and the like, an amount not exceeding Rs. 100 may be drawn under the sanction of the Gaon Panchayat in the name of the Pradhan. It shall be adjusted before the close of the year in which it is made and no fresh withdrawal shall be made unless the previous one has been adjusted.

197. Payment of bills, vouchers and claims, etc.—The bill or other voucher presented as a claim for money shall be received and submitted to the Pradhan or in his absence to such member of the Gaon Panchayat as is appointed in this behalf by a resolution of the Gaon Panchayat and if the claim be valid, the authority good, the signature true and in order, he shall make an order for payment at the foot of the voucher and sign it. Payment order on the salary bills of the establishment shall be passed by the Pradhan.

198. Payment of claim and receipt therefor.—After the order to pay has been entered in the voucher and passed, the amount shall be withdrawn by the Pradhan from Gaon Fund and paid to the employees.

Each payment shall be supported by the actual payee's receipt.

199. Maintenance of general cash-book.—On each day in which a transaction takes place, the general cash-book (Form No. 6) shall be closed, balanced and signed by the Pradhan, Up-Pradhan or a member appointed by the

Gaon Pan chayat in this behalf [or Sarpanch or Sahayak Sarpanch as the case may be]¹. At the end of each month, it shall be compared and made to tally with the pass book, and any difference shall be explained and accounted for in a footnote in the general cash-book. The book shall be laid before the prescribed authority for its inspection at least once in the three months, at a place and date fixed by it.

200. [Deleted.]

201. Maintenance of deposit register.—All deposits made with a Gaon Panchayat, whether in the form of cash, Government paper or other stock or of security bonds, shall be recorded in a deposit register in Form No. 19. A separate page shall be allotted for bonds deposited. In the case of bonds, if property is hypothecated, a brief description of the property shall be given in the remarks column and the heading of column 10 shall be changed to "Name of depositor". On the 1st of April, all deposits which have not lapsed or been returned shall be carried forward in details of names into the next year's register.

202. Maintenance and verification of stock-book.—A stock-book shall be maintained in Form No. 25 for all stores, e.g., postage stamps, materials for public works, all forms used by the Gaon Panchayat, tools and plants, lamps, lamp posts, ladders, oil, wicks : chimneys, etc. If any article is disposed of by sale or otherwise the details of the disposal shall also be entered. All entries and their disposal shall be initialled by the Pradhan or in his absence such member of the Gaon Panchayat as is appointed in this behalf by a resolution of the Gaon Panchayat. The stock shall be verified half-yearly by such person as the Pradhan may direct and the fact of verification be recorded.

203. Office Order Book.—An office order book shall be kept by the Gaon Panchayat in which all appointments, promotions, leave, suspensions, fines, office arrangements and orders generally shall be noted. The Pradhan will be responsible that the order book is kept in a correct and complete manner.

204. Treatment and maintenance of vouchers.—Vouchers shall be numbered serially for each year and filed in the office of the Gaon Panchayat in a guard file ; they shall not be deposited in the misils.

205. Destruction of vouchers and registers.—The vouchers, registers and other forms prescribed by these rules shall be retained or weeded and destroyed as noted below, after all audit objections relating to the period concerned have been settled :

Form	Period of retention
1. Budget Estimates	Five years.
2. Assessment List	Five years.
3. Demand and Collection Register	Ten years
4. Monthly Account	Five years.
5. General Cash-book	Permanently.
6. Remittance Chalans	Three years.
7. Security Bonds	Five years after they ceased to have effect.
8. Register of deposits	Permanently.
9. Stock-book	Three years.
10. Establishment pay bills	Three years
11. Contingent vouchers	Ten years.
12. Annual Account	Ten years.

1. Added vide Notification No. 664-P/XXXI V-28-61 dated Feb. 12, 1962 published in U. P. Gazette Part III dated Feb. 24, 1962.

Form	Period of retention
13. Receipts	Three years.
14. Fine statement	Three years.
15. Register of Public Works	Permanently.
16. Indent for Forms	One year.
17. Muster Rolls	Three years.

206. The District Magistrate shall apply the forms for use, by the Gaon Panchayat and the Nyaya Panchayat :

Provided that a Gaon Panchayat or a Nyaya Panchayat may get a form drawn up on a blank paper in its own office if a printed copy thereof is not available except the forms that may be specified by the prescribed authority.

207. Maintenance of register of Public Works.—The estimate for each work undertaken by the Gaon Panchayat, as soon as it has been sanctioned by the competent sanctioning authority, be entered in a register of public works to be kept in Form No. 21. A separate page in the register shall be given for each work,

208. Bills for works.—The details of the progress of works shall be entered in the register of public works (Form No. 21) from time to time and when a bill for the works is presented by the contractor it shall first be submitted to the officer in charge of the work for countersignature. This officer shall check the bill and either pay it from his permanent advance or send it to the office of the Gaon Panchayat where it shall be paid direct to the contractor in the usual way.

209. Details of Completion Certificate.—Before final payment for a work is made, a completion certificate shall be submitted by the Pradhan or in his absence such member as is appointed in this behalf by a resolution of the Gaon Panchayat to the effect from that he has examined the work and is satisfied that it has been properly carried out in accordance with the sanctioned plans and estimates.

If it has not been carried out in accordance with these plans and estimates, an explanation of the difference shall be given.

210. Muster rolls for daily labour.—In the case of works carried out by daily labour and not by contract the officer in charge of the work shall maintain a muster roll in Form No. 22.

211. Deleted.

212. Lighting under contract and deed thereof.—When the lighting of the Gaon Panchayat is done by contract, the contract deed shall, in addition to any other provisions required by law specify—

- (1) the description and quality of the articles which the contractor is to supply ;
- (2) the rates at which they are to be supplied unless the contract is given for a lump sum ; and
- (3) the hours during which the lamps are to be kept alight.

CHAPTER XI

Finance

Annual estimate of Income and Expenditure

213. Estimates.—Every Gaon Panchayat shall prepare an annual estimate of its income and expenditure in Form C for the year commencing from 1st April next following and shall lay it before the kharif meeting of Gaon Sabha.

214. & 215. Deleted.

216. Income and expenditure of Nyaya Panchayat.—A Nyaya Panchayat shall, two months before the kharif meeting of a Gaon Sabha send to every

Gaon Panchayat in its circle an estimate of its income and expenditure for the next financial year through the Panchayat Secretary who may make such changes in it as may be necessary.

217. Minimum cash balance of Gaon Panchayat.—The Gaon Panchayat shall keep in actual cash balance a sum of not less than one-tenth of its normal annual income. The prescribed authority may, however, by a general or special order, exempt any Gaon Panchayat, where exceptional circumstances exist, from the operation of this rule.

218. Gaon Panchayat's expenditure under different heads.—The Gaon Panchayat shall ear-mark funds out of its annual income for expenditure on education and public health and other heads prescribed by the prescribed authority.

218-A. The Pradhan, after the annual estimate of income and expenditure has been laid before the meeting of Gaon Sabha, shall allow such time as is necessary for general discussion, and soon after its close proceed to put to vote various heads of expenditure separately. Voting shall be by show of hands. The expenditure under every head shall be deemed to have been approved if passed by majority of votes of those present and voting.

219. (1) In case the Gaon Sabha refers back to the Gaon Panchayat the annual estimate submitted to it for reconsideration under sub-section (2) of section 41 of the Act, the Sabha shall communicate its directions or resolution to the Gaon Panchayat through the Pradhan.

(2) After the annual estimate of income and expenditure has been laid before the meeting of the Gaon Sabha under sub-section (1) or sub-section (3) of section 41 *ibid* as the case may be, the Pradhan shall allow such time as is necessary for general discussion. After the discussion has concluded the Pradhan shall put to vote various heads of expenditure separately. Voting shall be by show of hands and the expenditure under every head shall be deemed to have been approved if passed by majority of those present and voting.

(3) If a Gaon Panchayat does not lay the annual estimate of income and expenditure before the Gaon Sabha by 30th November, or the Gaon Sabha does not pass the same by 31st December, the prescribed authority shall prepare an annual estimate of income and expenditure under sub-section (4) of section 41 *ibid*. In case the Gaon Sabha fails to pass the annual estimate of income and expenditure so prepared by the prescribed authority in the manner laid down in sub-rule (2), it shall be deemed to have been passed on 1st February within the meaning of sub-section (4) of section 41 *ibid*.

(4) The Gaon Sabha may, at any time after the annual estimate takes effect, make any modifications or changes therein at a special meeting by a resolution in this behalf. The Pradhan shall forward a copy of the resolution to the prescribed authority and shall make the modifications and changes in annual estimate.

220. (1) If the Gaon Panchayat proposes to impose any new tax, rate or fee or to enhance within the limits prescribed the rate of any tax, rate or fee already imposed under section 37 of the Act, it shall give public notice of the proposal by affixing a notice containing a copy of its resolution at its notice board and also at such conspicuous places, if any, in the area of the Gaon Sabha as it thinks fit. The notice shall also state that objections may be filed before the Secretary of the Gaon Panchayat by a date to be specified in the notice, which shall be a date not earlier than 15 days from the date of notice. The Gaon Panchayat shall also get the purport of the resolution and date fixed for filing objections proclaimed in the area of the Gaon Sabha by beat of drum. The objections received shall be consi-

dered at a meeting of the Gaon Panchayat to be held for the purpose. If the Gaon Panchayat decides to impose the tax, rate or fee or to enhance the rate of any tax, rate or fee already levied, it shall lay the proposal before the Gaon Sabha with the objections received for its decision. If the proposal is approved by the Gaon Sabha either with or without any modification, the Pradhan shall submit the proposal to the prescribed authority for approval :

Provided that the rate of tax on houses and buildings shall not exceed 5 per cent of their rental value.

(2) The prescribed authority may return the proposal for further consideration or approve it with or without modification. The notice of the proposal as finalised by the prescribed authority and of the date fixed under sub-rule (3) shall be given in the manner, as may be specified in sub-rule (1).

(3) The proposal as approved by the prescribed authority imposing or enhancing tax, rate or fee shall come into force from such date as shall be fixed by the prescribed authority.

220-A. The Gaon Panchayat shall realize its taxes, rates or fees either through one of its members or through a tax collector, appointed either on monthly salary or on commission basis as the prescribed authority may decide. Such members or tax collector shall be required to furnish such security for the performance of the duties as may be fixed by the prescribed authority.

221. (1) Fees under clauses (e) and (f) of sub-section (1) of section 37 of the Act shall be levied at such rates as may be fixed by the prescribed authority.

(2) Where a Gaon Sabha levies a tax under clause (d) or a fee under clause (e) of sub-section (1) of section 37 of the Act the Gaon Panchayat may issue licences or badges or both to owner of animals and vehicles as the case may be, and to persons exposing goods for sale in markets, haats or melas belonging to or under the control of the Gaon Sabha. The cost of the badge issued shall be paid by such owners or persons.

222. Application for licence and recovery of fees.—Every owner liable to payment of tax under clause (d) and every person liable to payment of fee under clause (e) of sub-section (1) of section 37 of the Act, shall, within fifteen days of his so becoming liable or in the case of expiry of the period of licence already taken from the date of such expiry, apply for a licence or renewal of the licence, as the case may be, stating the period for which the licence or renewed licence is required. The tax or fee payable shall be paid along with the application, but failing that the Secretary shall cause a bill to be prepared and presented to the applicant and get the amount collected in accordance with this Act and the rules.

(2) The period in respect of which a licence may be issued under sub-rule (1) shall be one year commencing from the first of April or a half-year commencing from the said day or the first day of October and the tax or fee payable shall be charged for the whole year or half year as the case may be.

223. Production, transfer and return of licence or badge.—(1) Each person who holds a licence or a badge under the preceding rule shall—

- (a) while plying his animal or vehicle on hire or exposing goods for sale, as the case may be, keep his licence or badge or both, as the case may be, with him;
- (b) not transfer his badge to any other person;
- (c) produce his licence and badge for inspection whenever required to do so by the Pradhan, Secretary or such member of the Gaon Panchayat

or such officer or servant of the Gaon Panchayat as may be duly authorised in that behalf.

(2) Any breach of any of the provisions of rules 221, 222 and 223 shall be punishable by a Nyaya Panchayat with a fine which may extend to Rs. 10 and if the breach is a continuing one with a further fine of Re. 1 for every day after the first conviction.

224. Mode of assessment of tax, fee and rate.—(1) Where a tax, rate or fee has been imposed under sub-section (1) of section 37 of the Act, except clauses (d), (e), (f), and (g) thereof, the Gaon Panchayat shall, as soon as may be after commencement of each calendar year, prepare a list of the assessees in Form No. 14 showing the amount of tax payable by each assessee. The list shall be published in the area of the Gaon Sabha by announcing by beat of drum that the list is ready and by affixing a copy at the office of the Gaon Panchayat. The list shall be open to inspection free of charge to any person affected or likely to be affected by it who desires to see it.

(2) For the purpose of assessing the tax, rate or fee, the land revenue or rent of land, income or profits in the preceding agricultural or calendar year whichever may appear more suitable, shall be the basis.

(3) The Gaon Panchayat shall consider any objection against the tax assessed or rate or fee levied that may be lodged within 15 days from the date of publication of the list under sub-rule (1).

(4) The Gaon Panchayat shall after making such amendment, if any, in the assessment list as may be necessary having regard to its decisions on the objections, place the list at a meeting of Gaon Sabha, which may discuss and consider the objections and the decision of the Gaon Panchayat in respect thereof and may make such amendments in the list as it may deem proper.

(5) The Pradhan shall send the assessment list as approved by the Gaon Sabha to the prescribed authority which may approve it without any modification or with such modifications as it may think fit.

(6) The assessment list as approved by the prescribed authority under sub-rule (5) shall be republished in the manner laid down in sub-rule (1) and shall, subject to the provisions of rule 225, be final and shall come into operation on and from the first day of July of the year in question.

225. Appeal against assessment.—Any person dissatisfied with the levy of a tax, rate or fee by the Gaon Sabha may appeal to the prescribed authority within thirty days from the date of the publication of the assessment list under rule 224 (6). The list shall, if necessary, be amended in accordance with the decisions on appeal and any tax, rate or fee already recovered in contravention of the decision on the appeal shall be refunded to the appellant.

226. The Gaon Sabha may at any time add in the assessment list published under sub-rule (5) of rule 224 the name of any person who was left out from assessment and the provisions of rules 224 and 225 shall, as far as may be, apply to such assessment.

227. Register of tax.—The Gaon Panchayat shall maintain a demand and collection register in Form No. 15.

228. (1) Where a Gaon Panchayat passes resolution or the prescribed authority makes an authorization under section 37-B of the Act, the Gaon Panchayat shall forward a list of defaulters to the Tahsildar of the Tahsil in which the

area of the Gaon Sabha lies with a view to realization of the unpaid taxes, rates and fees as arrears of land revenue.

(2) The Gaon Panchayat shall thereafter send a half-yearly list of defaulters after taking into account the payments and recoveries made during the preceding half year.

229. Writing off ¹of irrecoverable sums.—The Gaon Panchayat may write off irrecoverable sums not exceeding five rupees with the approval of the prescribed authority.

229-A. Remission of tax, rate or fee.—A Gaon Sabha may, by resolution remit the whole or part of any tax, rate or fee imposed or levied by it, in the following cases :

- (a) Floods,
- (b) Famine or Drought,
- (c) Cloudburst ;
- (d) Violent fire ; and
- (e) Incapacity to pay due to poverty or any other circumstances to the satisfaction of the Gaon Sabha.

Provided that no such resolution shall take effect unless it is approved by the prescribed authority.

230. Liability of Government or District Board property to be taxed.—No assessment shall be imposed on any house, building or land belonging to the Government or the District Board which is not used for residential purposes, but the Government or the District Board, if the District Magistrate so directs in any case, be liable to pay to the Gaon Panchayat, in lieu of the assessment, such sum as he may, from time to time, determine to be fair and reasonable.

231. Owner's or occupier's liability to a tax.—Where an assessment imposed on a house, building or land belonging to Government or the District Board which is used for residential purposes, it shall be payable by the owner or occupier as the Government or the District Board may decide.

232. Every person ceasing to carry on any trade, calling or profession within the area of the Gaon Sabha shall, within thirty days of the ceasing, give an intimation of the fact in writing to the Pradhan or Secretary of the Gaon Panchayat.

233. Intimation of change or transfer of trade.—Every person liable to pay the tax, rate or fee who has changed either the designation of his firm or the nature of his trade or calling or his place of business or has transferred his business shall, within thirty days of the change or transfer, give written intimation of the fact.

234. (*Deleted*).

CHAPTER XII

Establishment of Schools, Libraries and Dispensaries

235. Primary Schools.—Establishment, maintenance and management of primary schools shall be governed *mutatis mutandis* by the rules framed by the

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1. The new title "writing off irrecoverable sums" substituted by notification no. 2513-P-XXX 725-57 dated 8-5-58.
 2. Rule 229-A added by *ibid*.

Government for the District Board in this behalf except rules regarding standard building :

Provided that the entire cost of existing District Board aided primary schools shall as hitherto be borne by the District Board.

236. Library, Reading room or Dispensary.—(a) Gaon Panchayat may, so far as its funds permit, establish, maintain a library, reading-room or a dispensary in its area and raise funds for the same by donations from the public and may also make contributions from its own funds.

(b) The library and reading-room may be attached to a primary school and may be placed in the direct charge of the Headmaster of the schools who may be paid a suitable monthly allowance for performing the duties in that connexion beyond school hours.

237. Attachment of Dispensaries to Primary Schools.—Subject to funds available, small dispensaries may be attached to primary schools and may be provided with medical chests on such conditions as may be laid down by the prescribed authority.

238. Inspection and superintendence.—The members of the Gaon Panchayat and its officers shall inspect and superintend the school, dispensaries, libraries and other similar institutions established or maintained by a Gaon Panchayat and it shall be their duty to encourage people to give necessary help to those institutions.

239. [Deleted]¹

240. Village Volunteer Force.—(1) A Gaon Panchayat shall, subject to the previous sanction of the prescribed authority, and after consulting the Gaon Sabha, maintain a village volunteer force on such terms and conditions as may be fixed by the prescribed authority.

(2) **Cost of force.**—The cost of the force shall be met from the Gaon Fund, contribution from District Board and donation from the public.

(3) **Eligibility.**—All male adults not above the age of 45 shall be eligible to be enrolled as volunteers.

241. The function of the volunteer force shall be—

- (a) to perform the duties of a watch and ward in the village ;
- (b) to serve notices and summons and execute other orders of the Gaon Panchayat and Nyaya Panchayat which may be entrusted to them ;
- (c) to assist the Gaon Panchayat in other matters, e.g., relating to public health, collection of statistics such as cattle census, population census ;
- (d) to assist the Gaon Panchayat in promoting good will and social harmony between different communities ;
- (e) to assist the Gaon Panchayat in the matter of relief against famine or other calamity ;
- (f) to assist the Gaon Panchayat in organising and regulating melas, markets and hats ;
- (g) to perform any other duty or discharge any other function which may be imposed on or assigned to it by the prescribed authority or the Government.

1. Deleted vide Notification No. 397-P/XXXIII-148-59 dated Feb. 28, 1962, published in the U.P. Gazette dated March 10, 1962, Part II.

242. Chief Officer and his duties.—The Gaon Panchayat shall appoint a chief officer in the immediate charge of the volunteer force and any other officer as the State Government determine and in case of an emergency, the said officer may be empowered by the prescribed authority with such restrictions as it may impose to—

- (a) remove or order any member of the force to remove, any person who by their presence interfere with the due operation of the force;
- (b) break into or throw or pull down any premises, doing as little damage as possible by himself or with the assistance of the force;
- (c) call on the neighbouring village volunteer force to render such assistance as may be necessary, and
- (d) generally, take such measures as may be necessary for the protection of life and property.

243. Provision for making bye-laws.—To frame bye-laws the Panchayat shall first publish a draft of the bye-laws by affixing outside its office and also at such conspicuous places in the area of the Gaon Sabha as it may deem fit for objections within a period to be specified.

244. (1) After considering objections, if any, and taking decisions thereon, the Gaon Panchayat shall forward them to the prescribed authority who may modify or pass any other suitable order on them.

(2) In case the prescribed authority does not pass a suitable order under sub-rule (1) within two months of the receipt of the bye-laws the District Panchayat-officer may sanction them with or without modification.

(3) The bye-laws as sanctioned by the prescribed authority under sub-rule (1) or by the District Panchayat Officer under sub-rule (2) shall be published in the manner laid down in rule 243 and shall come into force on such publication.

245. The provisions of rules 243 and 244 shall, as far as may be, apply to the framing of bye-laws under section 111 of the Act.

246. Channel of correspondence.—Except when specially provided in any rule all correspondence of the Gaon Panchayat or Nyaya Panchayat with the Government or with the Head of Department of the district or divisional representative of a department or with any officer subordinate to or under the general control and direction of the District Magistrate, shall pass through the prescribed authority.

247. Power to borrow money.—A Gaon Sabha may borrow money from any other Gaon Sabha subject to the rules contained in Schedule VII of these rules.

248. [Deleted].

249. Power to compound an offence under the act or rule or bye-law.—An offence under the Act or any rule or bye-laws made thereunder, may on an application made by the party concerned, be compounded by the Pradhan of the Gaon Panchayat on payment of a sum to be determined by him, not exceeding ten rupees and the said amount shall be credited to the Gaon Fund.

250. If any person fails to carry out any direction of the Gaon Panchayat for which written notice has been served on him the direction shall be got

1. Rule 247 newly substituted by Notification No. 81-P-XXXIII—199/57 dated 24-1-1958.

executed by the Gaon Panchayat and the expenditure incurred thereon shall be recovered from the person concerned as arrears of land revenue.

251. A Gaon Panchayat may participate or may make reasonable provision for assisting any Co-operative Society or Joint Stock Company established for development of industry, agriculture including irrigation, commerce and trade within its jurisdiction on terms approved by the prescribed authority.

252. In case of accidental loss of the property belonging to a Gaon Panchayat or a Nyaya Panchayat or any sum becoming irrecoverable, the prescribed authority (on the request of the Gaon Panchayat, or Nyaya Panchayat) may after such inquiry as it deems fit, write off a sum not exceeding Rs. 500. In case the value of the property exceeds Rs. 500, prior approval of Government shall be necessary.

253. (1) Where a Gaon Panchayat provides for the fire protection of houses and crops gathered at the threshing-floor, the cost of such protection shall be levied and recovered by the Gaon Panchayat as a fee assessed on every owner or occupier of houses and cultivable land in the village in the manner provided in sub-rules (2) and (3) and at the rate specified in sub-rule (4).

(2) The fee shall be leviable for the year beginning with 1st April and ending on 31st March. If the levy of fee comes into force on any day other than 1st April, it shall be leviable for the quarter beginning with 1st July, 1st October and 1st January next following and thereafter for the.

(3) (a) The fee shall be primarily recoverable from the owner of the house or land who occupies such house or land.

(b) If the house or land is not occupied by the owner, the fee shall be primarily leviable from occupier.

(4) The fee shall be leviable at the maximum rate of annas 8 per house or per cultivator.

254. (1) Where a Gaon Panchayat provides for the watch and ward of the village or the crops therein, the costs of such watch and ward shall be levied and recovered by the Gaon Panchayat as a fee assessed on every owner or occupier of houses or cultivator of land in the village in the manner provided in sub-rule (3) and at the rates specified in sub-rule (4).

(2) The fee shall be leviable for the year beginning with 1st April and ending on 31st March. If the levy of fee comes into force on any day other than 1st April it shall be leviable for the quarter beginning with 1st July, 1st October and 1st January next following and thereafter for the year.

(3) (a) The fee shall be primarily recoverable from the owner of the house or land who occupies such house or land.

(b) If the house or land is not occupied by the owner the fee shall be primarily leviable from the occupier.

(4) The fee shall be leviable in relation to the house at such rate not exceeding 10 per cent of the annual setting value subject to a maximum of Rs. 24 per annum.

255. The proceeds for the fee levied under rule 253 or rule 254 shall not form part of the general revenues of the Gaon Sabha and shall be spent over the rendition of the service in consideration of which the fee is levied.

The rate at which the fee is levied shall be such as to yield upon realization of the fees an amount approximating to the expenditure proposed to be incurred in rendering the service.

SCHEDULE I

Appointment of prescribed authorities under the various sections of the Panchayat Raj Act and the Panchayat Raj Rules

Column 1 Section or rule 1	Column 2 Prescribed authority 2
SECTIONS	
6—A	Tehsildar, as prescribed authority and S. D. O. as the appellate prescribed authority.
9	District Magistrate.
11 (1)	Panchayat Inspector.
12 (5)	District Magistrate.
12 (8)	District Magistrate.
12—A	District Magistrate.
12—C	S. D. O.
12—D	S. D. O.
[X]	X X]
12—E	Assistant District Panchayat Officer.
17—(e)	District Panchayat Officer.
20	District Panchayat Officer.
25 (1)	Assistant District Panchayat Officer.
25 (3)	Assistant District Panchayat Officer.
25 (4)	Assistant District Panchayat Officer.
25 (5)	Assistant District Panchayat Officer.
25 (6)	District Panchayat Officer.
25—A	District Panchayat Officer.
26	D. P. O. up to Rs. 1,000 and the Director/Joint Director above Rs. 1,000 for borrowing money from any other Gaon Sabha and State Government.
27 (1)	District Panchayat Officer.
27 (2)	District Magistrate.
30 (2)	District Panchayat Officer.
37—A (1)	District Panchayat Officer.
37—A (2)	Assistant District Panchayat Officer.
37—B	District Panchayat Officer.
37—C (2)	District Magistrate and S. D. O.
37—C (3)	District Panchayat Officer.
39 (1)	Assistant District Panchayat Officer.
41 (3)	Assistant District Panchayat Officer.
41 (4)	Assistant District Panchayat Officer.
41 (5)	District Panchayat Officer.
42	District Magistrate.
43	District Magistrate.
PROVISO	
44	District Magistrate.
47	Assistant District Panchayat Officer.
49 (5)	District Panchayat Officer.
50	District Magistrate.
96 (1)	Director and Joint Director.
96 (2)	Director and Joint Director.

1. The word [12 E] and [Panchayat Inspector deleted vide Notification No 759—P XXXIII-2⁸
 (2) —1961 dated Feb. 9, 1962.

Column 1 Section or rule	Column 2 Prescribed authority
1	2
98	District Panchayat Officer.
102	District panchayat Officer.
103	District Magistrate.
109	Director-Joint Director in case or disputes as to the jurisdiction of Nyaya Panchayat or between two or more Gaon Panchayats. State Government in case of dispute between Gaon Panchayats and Town Areas or Municipal Boards or District Board.
111	Executive-Committee of the District Board.
112 (1)	Executive Committee of the District Board.
(a) to (f)	Director and Joint Director.
112 (g)	District Magistrate.
114	
RULES	
3—AA	District Panchayat Officer.
33—A	Panchayat Inspector.
33—B (i)	District Panchayat Officer & Assistant District Panchayat Officer.
(2) and (7)	
36	Panchayat Inspector.
40	Assistant District Panchayat Officer.
46	Panchayat Inspector.
47—A	Panchayat Inspector.
54	Panchayat Inspector.
55	Panchayat Inspector.
56	Panchayat Inspector.
57	Panchayat Inspector.
58	Panchayat Inspector.
60	Assistant Districts Panchayat Officer.
61-A (1)	District Panchayat Officer.
61-A (2)	Director and Joint Director of Panchayats.
62—D	Panchayat Inspector.
68 (1)	District Panchayat Officer & Asstt. District Panchayat Officer.
70	District Panchayat Officer.
82	Assistant District Panchayat Officer.
84 (4)	Panchayat Inspector.
87	District Panchayat Officer Asstt. District Panchayat Officer.
88	District Panchayat Officer & Asstt. District Panchayat Officer.
89	(1) Sub-Divisional Magistrate with regard to criminal cases. (2) Munsif with regard to Civil cases. (3) Sub-Divisional Officer with regard to Revenue cases.
111 (e)	District Panchayat Officer.
138	Panchayat Inspector.
139	District Panchayat Officer.
141	District Medical Officer of Health.
146	District Medical Officer of Health.
152 (a)	(2) District Panchayat Officer.
153 (b)	District Panchayat Officer.
154 (b)	(1) Panchayat Inspector for works costing more than Rs. 500 but less than Rs. 1,000. (2) District Panchayat Officer for works costing more than Rs. 1,000 but less than Rs. 5,000.

U. P. PANCHAYAT RAJ RULES

Column 1 Section or rule	Column 2 Prescribed authority
1	2
	(3) Director and Joint Director of Panchayats for works costing more than Rs. 5,000.
155	(1) Panchayat Inspector for works costing more than Rs. 500 but less than Rs. 1,000. (2) District Panchayat Officer for works costing more than Rs. 1,000 but less than Rs. 5,000. (3) Director and Joint Director of Panchayats for works costing more than Rs. 5,000.
157 (b)	District Panchayat Officer.
165 (5)	Assistant District Panchayat Officer.
168 (2)	District Panchayat Officer.
175	Panchayat Inspector for casual leave and District Panchayat Officer and Assistant District Panchayat Officer for all other kinds of leave.
175-A	District Magistrate.
177	Director and Joint Director of Panchayat.
178 (1)	District Panchayat Officer.
178 (3)	District Panchayat Officer.
179 (1)	District Panchayat Officer.
185	Panchayat Inspector.
186	Director and Joint Director of Panchayats.
187	District Panchayat Officer & Assistant District Panchayat Officer.
188	District Panchayat Officer & Assistant District Panchayat Officer.
189 (note)	District Panchayat Officer & Assistant District Panchayat Officer.
193	District Panchayat Officer.
199	Panchayat Inspector.
206	Director and Joint Director of Panchayats.
217	Assistant District Panchayat Officer.
218	District Panchayat Officer & Assistant District Panchayat Officer.
219 (3) & (4)	Assistant District Panchayat Officer.
220	Assistant District Panchayat Officer.
220-A	District Panchayat Officer.
221 (1)	Assistant District Panchayat Officer.
224 (5)	Assistant District Panchayat Officer.
225	District Panchayat Officer.
228 (1)	District Panchayat Officer.
229-A	Assistant District Panchayat Officer.
229	Assistant District Panchayat Officer.
237	District Medical Officer of Health and District Inspector of Schools.
240 (1)	District Panchayat Officer.
241 (g)	District Magistrate.
244	Executive Committee of the District Board.
246	Panchayat Inspector and District Panchayat Officer.
251	(1) District Panchayat Officer for shares upto Rs. 250. (2) Director, Joint Director, Deputy Director and Assistant Director of Panchayats for shares of Rs. 251 and upwards.
252	District Panchayat Officer.

SCHEDULE II

**GAON PANCHAYAT AND NYAYA PANCHAYAT
SERVANTS CONDUCT RULES**

[Published in the U. P. Gazette dated June 13, 1959, under notification No. 2421
XXXIII 399—58 dated June 3, 1959]

1. Definition—In these rules, unless there is anything repugnant in the subject or context :

- (a) "servant" means a person appointed to a service or post in connection with the affairs of a Gaon Panchayat or Nyaya Panchayat but does not include an inferior servant ; and
- (b) "Member of the family" in relation to a servant includes—
 - (i) the wife, child or step child of such servant whether residing with him or not, and, in relation to a servant, who is a woman, the husband residing with her and dependent on her, and
 - (ii) any other person related, whether by blood or by marriage, to the servant or to such servant's wife or husband, and wholly dependent on the servant, but does not include a wife or husband legally separated from the servant, or a child or step child, who is no longer, in any way, dependent upon him or her, or of whose custody the servant has been deprived by law.

2. General.—Every servant shall at all times maintain absolute integrity and devotion to duty.

3. Equal treatment for all.—Every servant shall accord equal treatment to people irrespective of their caste, sect, or religion.

4. Gifts.—A servant shall not without previous approval of the appointing Authority—

- (a) accept directly or indirectly on his own behalf or on behalf of any other person, or
- (b) permit any member of his family to accept any gift, gratuity or reward from any person other than a close relation :

Provided that he may accept or permit any member of his family to accept from a personal friends a wedding present or a present on a ceremonial occasion, of a value not exceeding Rs. 51. All servants shall, however, use their best endeavour to discourage even the tender of such presents.

5. Subscriptions.—A servant may, with the previous sanction of the Appointing Authority ask for or accept or participate in the raising of a subscription or other pecuniary assistance for a charitable purpose connected with medical relief, education or other objects of public utility ; but it shall not be permissible for him to ask for subscription, etc., for any other purpose whatsoever.

6. Lending and borrowing money.—No servant shall lend money to or borrow it from any member or servant of the Gaon Panchayat or Nyaya Panchayat or from any person residing within the limits of the Gaon Sabha or Nyaya Panchayat :

Provided that a servant may—

- (1) make an advance of pay to a private servant or give a loan of a small amount free of interest to any personal friend or relative, or
- (2) accept a purely temporary loan of a small amount free of interest from a personal friend or relative or operate a credit account with *bona-fide*

banker, or with the sanction of the Appointing Authority borrow money from a Bank, Co-operative Society or a firm of standing.

7. Holding or acquiring immovable property—(1) No servant shall, except after informing the Appointing Authority acquire or dispose of any immovable property by mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family :

Provided that any such transaction conducted otherwise than through a regular and reputed dealer shall require the previous sanction of the Appointing Authority.

(2) A servant who enters into a transaction concerning any movable property exceeding five hundred rupees in value whether by way of purchase or sale or otherwise, shall forthwith report such transaction to the Appointing Authority :

Provided that no servant shall enter into any such transaction except with or through a reputed dealer or agent of standing ; or with the previous sanction of the Appointing Authority.

(3) At the time of first appointment and thereafter at intervals of five years every servant shall make to the Appointing Authority through the usual channel a declaration of immovable property owned, acquired or inherited by him or held by him on lease or mortgage, and of shares and other investments, which may from time to time be held or acquired by him, or by any member of his family. Such declarations should state the full particulars of the property, shares and other investments.

4. The Appointing Authority may at any time, by general or special order, require a servant to submit within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or by any member of his family, as may be specified in the order. Such statements shall, if so required include details of the means by which or the sources from which such property was acquired.

8. Investments other than those in immovable property.—A servant shall not make or allow any member of his family to make any investment, other than an investment in immovable property permitted by the preceding rule in banks, recognized securities of societies which give him such private interest in matters with which his public duties are connected as would embarrass or influence him in the discharge of his duties, nor shall he speculate in stocks, shares, or other securities.

9. Private trade or employment.—No servant shall, except with the previous sanction of the Appointing Authority engage directly or indirectly in any trade or business or undertake any other employment:

Provided that a servant may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character, subject to the condition that his official duties do not thereby suffer and that he informs the Appointing Authority within one month of his undertaking such a work, but he shall not undertake and shall discontinue such work if so directed by the Appointing Authority.

10. Insolvency and habitual indebtedness.—A servant shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A servant who becomes the subject of a legal proceeding for insolvency shall forthwith report full facts to the Appointing Authority.

11. Official information to be kept confidential.—Save where required by or under any law, or by any general or special order of the Appointing

Authority no servant shall communicate directly or indirectly any document or information which has come into his possession /in the course of his duties or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise to the press or any other person, to whom he is not authorized to communicate such document or information.

12. Connection with Press or Radio.—(1) No servant shall, except with the previous sanction of the Appointing Authority own wholly or in part, or edit or manage or participate in the editing or managing of, any newspaper or other periodical publication.

(2) No servant shall, except with the previous sanction of the Appointing Authority or in the *bona fide* discharge of his duties participate in a radio broadcast or contribute any article or write any letter, either anonymously or in his own name or in any other name to any newspaper or periodical :

Provided that no such sanction shall be required if such broadcast or such contribution is of a purely literary, artistic, or scientific character.

13. Taking part in politics.—(1) No servant shall be a member, or be otherwise associated with, any political party or any organization which takes part in politics,nor shall he take part in, subscribe in aid of, or assist in any other manner any movement or organization, which is or which tends directly or indirectly to be, subversive of the Government established by law.

(2) It shall be the duty of every servant to endeavour to prevent any member of his family from taking part in subscribing in aid of or assisting in any other manner any movement or activity which is, or tends directly or indirectly to be, subversive of the Government as by law established and where such a servant fails to prevent a member of his family from taking part in, or subscribing in aid of, or assisting in any other manner, any such movement or activity, he shall make a report to that effect to the prescribed authority.

(3) If any dispute arises whether any servant or activity falls within the scope of this rule, the decision of the State Government thereon shall be final.

14. Election to a local authority, a Nyaya Panchayat, a Gaon Panchayat or a Legislative body.—No servant shall canvass or otherwise interfere or use his influence in connection with or take part in an election to any legislature, local authority, Nyaya Panchayat or Gaon Panchayat :

Provided that—

- (1) a servant qualified to vote at such election may exercise his right to vote, but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted, and
- (2) a servant shall not be deemed to have contravened the provisions of this rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation.—The display by a servant on his person, vehicle or residence of any elector symbol shall amount to using his influence in connexion with an election within the meaning of this regulation.

15. Direct approach to the Members of the Government, etc.—No servant shall approach or attempt to approach any member of Government or of the State Legislature or Secretariat Officer on any personal or general question, relating to service matters except through the Appointing Authority nor seek or attempt to seek interview with such members except by previous appointment and through proper channel,

16. Ventilating grievances through the Press.—No servant shall ventilate through the Press any personal or general grievances relating to matter concerning his service or the board which he is serving.

17. Seeking employment elsewhere.—No servant shall apply for any authority except by making an application through proper channel, nor shall any servant apply or enter into negotiations for his employment on any post not under any Government in the Indian Union, except after obtaining through proper channel previous permission in writing from the Director Panchayat Raj.

18. Criticism of Government.—No servant shall, in any radio broadcast or in any document published anonymously or in his own name, or in any other name or in any communication to the press, or in any public utterance, make any statement of fact or opinion which has the effect of an adverse criticism of any decision of a superior officer or of any current or recent policy or action of a State Government or the Central Government or a local authority.

19. Public demonstrations in honour of servants.—No servant shall, except with the previous sanction of the Appointing Authority receive any complimentary or valedictory address or attend any meeting or public entertainment held in his honour or in the honour of any other servant:

Provided that nothing in this regulation shall apply to a farewell entertainment of a substantial private or informal character and in honour of a servant on the occasion of his retirement or quitting service.

20. Insurance business.—A servant shall not permit any member of his family to act as an insurance agent within the limits of the Gaon Sabha or Nyaya Panchayat in which he is serving.

21. Vindication of acts and character of servants.—No servant shall, except with the previous sanction of the Appointing Authority have recourse to any court or to the press for the vindication of any official act which has been subject matter of adverse criticism or an attack of defamatory character.

Explanation.—Nothing in this rule shall be deemed to prohibit a servant from vindicating his private character or any act done by him in a private capacity.

22. Litigation on service matters.—No servant shall attempt to seek in a court of law a decision on grievances arising out of his employment or conditions of service, even in cases where such a remedy is legally admissible, without first exhausting the normal official channels of redress.

23. Bigamous marriages.—No servant who has a wife/husband living shall contract another marriage without first obtaining the permission of the Appointing Authority, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

24. Proper use of amenities.—No servant shall misuse, or carelessly use, amenities provided for him by the Gaon Panchayat or Nyaya Panchayat to facilitate the discharge of his public duties.

25. Payment of purchases.—Unless payment by instalments is customary, or specially provided, or a credit account is maintained with a *bona fide* tradesman no servant shall withhold prompt and full payment for the articles purchased by him whether the purchases are made on tour or otherwise.

26. Use of service without payment.—No servant shall, without making proper and adequate payment, avail himself of any service or entertainment for which hire or price or admission fee is charged,

27. Use of conveyance belonging to others.—No servant shall except in exceptional circumstances use a conveyance belonging to a private person or any servant who is subordinate to him.

28. Purchase through subordinates.—No servant shall himself ask or permit any member of his family to ask any person who is subordinate to him, to make purchases, locally or from outstation, on behalf of him or a member of his family whether on advance payment or otherwise :

Provided that this rule shall not apply to the purchases which the inferior staff attached to the servant may be required to make.

29. Interpretation.—If any dispute arises relating to the interpretation of these rules it shall be referred to the State Government whose decision thereon shall be final.

30. Repeal and saving.—Any rules corresponding to these rules in force immediately before the commencement of those rules and applicable to servants are hereby repealed :

Provided that an order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

SCHEDULE III

Delegation of powers of the State Government under the various sections of the Panchayat Raj Act and the Panchayat Raj Rules to subordinate authorities.

1	2
Section or rule	Power delegated to
<i>Sections</i>	
3	Director and Joint Director of Panchayats U. P.
5-A	S. D. O.
12 (8)	District Magistrate.
25 (4)	Director and Joint Director.
37 C(1)	Director and Joint Director of Panchayat with full powers.
95(1)2(f)	Director and Joint Director with the powers of only suspension of Gaon Panchayats, Joint Committee or Nyaya Panchayats.
95(1)(g)	Director, Joint Director, Deputy Director and Assistant Director of Panchayats.
95(2)	Director and Joint Director.
95-A	Director and Joint Director of Panchayats.
96(1)	D. P. O.
112(2) Proviso Rules	Director and Joint Director of Panchayats.
49(1)	Director and Joint Director.
65	Director and Joint Director of Panchayats.
141	Director and Joint Director of Panchayats.
179(2)	Director and Joint Director of Panchayats. The working of the Treasury or sub Treasury or any financial rule shall be referred to State Government.
186	Director and Joint Director of Panchayats.

1	2
Section or rule	Power delegated to
239	Director and Joint Director of Panchayats.
241(g)	Director and Joint Director of Panchayats.
242	District Panchayat Officer.
252	Director and Joint Director of Panchayats.
257	Director and Joint Director of Panchayats.

SCHEDULE IV

1.—Model bye-laws prohibiting the removal or use of water for drinking purposes from any source which is likely to cause danger to health and the doing of anything likely to contaminate any source of drinking water.

[Under section 112 (1) (a) of the Panchayat Raj Act 1947]

1. (a) No person shall ease himself or throw or deposit any manure, refuse, carcass or any other offensive matter within 100 yards of any well or other source of water, the water of which is used for drinking purposes.

(b) Erect any hut or house within 50 ft. of any well or other source of water used for drinking purposes.

2. Noxious vegetation shall not be thrown to encroach or grow upon any well or near any tank or other source of water used for drinking purposes. Any person receiving a notice from the Gaon Panchayat that any vegetation is directly or indirectly injurious to public health shall remove such vegetation when called upon to do so by the Gaon Panchayat.

(3) (a) No person shall throw or deposit any offensive matter, rubbish, night soil or carcass in any well, pond or other source of water used for drinking purposes.

(b) No person shall lower any *lota* or metallic utensil rubbed with earth into any well or other source of water used for drinking purposes..

4. Except in the case where Gaon Panchayat has made provision for the purposes as hereinafter mentioned, no person shall bathe or wash his body or the body of another person, or clothes, or animal within 50 ft. of any well, tank or other source of water used for drinking purposes.

5. No trees, bamboos or vegetation shall be allowed to overhang any well or other source of water used for drinking purposes. If there are any trees, bamboos or vegetation, their owner shall cut or remove them or in case of any religious objection to the same, shall construct a roof of galvanized iron sheet or tin shed within a reasonable time of the notice by the Gaon Panchayat in this behalf. In case of failure to do so, the Gaon Panchayat shall have the power to do so and recover the expenses from the person concerned.

6. An owner of or any person having control over a private water-course, spring, tank or well, the water of which is used by the public for drinking purposes shall on receipt of a notice from the Gaon Panchayat —

(a) repair the well according to direction given by the Gaon Panchayat ;

(b) construct a parapet wall, pulley, platform and drain to take away water from a well, tank or other source of water used for drinking purposes beyond the zone of filtration ;

- (e) disinfect them by permanganate of potash or other suitable disinfectant recommended by the Gaon Panchayat ;
- (d) there shall be a suitable arrangement for disposal of waste water from the well at a distance of not less than one and a half times the depth of the well.

7. The owner or person having control over wells the water of which is used by the public for drinking shall have them cleaned thoroughly by emptying the water and taking out mud, silt and decaying vegetation once every year before advent of rainy season.

In case of non-compliance of these provisions, the Gaon Panchayat shall first issue a notice to such person requiring him to comply with these provisions within a reasonable time. In case the notice is not complied with within the period specified in the notice the Gaon Panchayat shall get the well cleaned within one month next after the expiry of the aforesaid period and recover the cost thereof from the person concerned.

8. Water from tanks may be used for drinking purposes only in villages, where no water-supply from a well is available. Where two or more tanks exist in the same village the Gaon Panchayat may mark off one or more of them for drinking purposes and no person shall remove for drinking purposes any water from a tank not so marked off.

9. If during the prevalence of any epidemic the Gaon Panchayat prohibits the use of the water of any well, tank, spring or water-course for drinking purposes, it shall not be so used until the Gaon Panchayat vacates its order and reopens the same by beat of drum as well as by issuing a notice.

10. Any person who has in his house or in his possession any clothing, bedding furniture, etc., which has come in contact with a person suffering from infectious disease e. g., plague, small-pox, scarlet fever, enteric fever, dyptheria, measles, tuberculosis or cerebro-spinal meningitis shall cause them to be disinfected with permanganate of potash or other disinfectant or by boiling or exposure to the sun or burning as the District Medical Officer of Health or the Assistant Medical Officer of Health or Sanitary Inspector may by notice direct and shall not wash them in any pond, tank or other sources of water before disinfecting the same.

11. During the prevalence of any epidemic the Gaon Panchayat shall disinfect water of every well, tank or pond used for drinking purposes at least once every month by the use of any disinfectant, e. g., potassium permanganate, chlorinated lime, etc.

12. No one shall prohibit any employee of Gaon Panchayat or Public Health Department from disinfecting the water of any well, tank, pond, etc., whether public or private.

13. Gaon Panchayat shall prohibit members and servants of any family in which there is a suspected case of cholera or small pox from fetching water from any source used for drinking purposes. It shall arrange supply of water to members and servants of such a family before passing an order under this bye law.

14. No private or public well shall be constructed, the water of which is to be used for human consumption within 50 ft. of any latrine, a drain or other source liable to cause pollution of the water therein.

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15. The cylinder of the well shall be *pucca* throughout and impervious to water up to a depth of not less than 5 ft. below the lowest level of the sub-soil water in the vicinity.

16. In every well the water of which is used for drinking purposes there shall be.—

(a) a parapet 2 1/2 ft. high with coping of 458 with pulleys should be fixed thereto, and

(b) a *pucca* platform with a drain all round to take away the split water. The drain shall discharge into one or more soakage pits depending on the size of the well, situated at least 25 ft. away from the mouth of the well or in drain which will carry away the slope water to at least 50 ft. away.

17. No person shall bathe, wash any portion of his body, wash any clothes or utensils or cattle at the platform or parapet of the well.

Penalty

In exercise of the powers conferred by section 98 of the Panchayat Raj Act, the Gaon Panchayat hereby directs that a person found guilty of a breach of any of the above-byelaws by the Nyaya Panchayat shall be punishable with a fine, which may extend to Rs. 10 and if the breach is a continuing one with a further fine which may extend to Re. 1 for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

II—Model bye-laws prohibiting or regulating the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place.

[Under section 112 (1) (b)]

1. No person shall discharge the sullage, waste, wash or dirty water from his house or animal shed on a public street or lane or in a drain not set apart for the purposes, otherwise than in suitable sized soakage pit or pits, *pucca hauz*, other property constructed receptacle or in any other manner, as directed by Gaon Panchayat and these shall be kept clean.

2. Within one month of the receipt of a notice the owner of every house, the drainage of which is not to the satisfaction of the Gaon Panchayat shall construct one or more soakage pits of the specification given in Schedule "A" to these bye-laws and shall connect every house or kitchen drain and the drain from privies and cattle-sheds to a separate soakage pit.

3. The owner or in his absence the head of the family living in every house in which soakage pits have been constructed shall at periods not exceeding six months whenever required by the Pradhan or the Secretary of the Gaon Panchayat or a member of the District Health staff not below the rank of a Sanitary Inspector shall have the pits cleaned by digging up the filth and ballast and burying them underground and putting in new ballast and such owner or occupier shall not let the pits overflow at any time.

4. Every cattle shed must be so constructed as to allow to flow urine, etc., out of the cattle shed into a cesspool which must be so constructed as not to admit rain water.

5. Water used in dyeing and tanning skin shall not be allowed to flow in or contaminate any source of supply of water used for drinking purpose for human being or cattle.

No one shall allow sullage water of his house to flow in or contaminate any source of supply of water used for drinking purposes.

Penalty

In exercise of the powers conferred by section 98 of the Panchayat Raj Act, 1947 the Gaon Panchayat hereby directs that a person found guilty of a breach of any of the above bye-laws by the Nyaya Panchayat shall be punishable with a fine which may extend to Rs. 10 and if the breach is a continuing one with a further fine which may extend to Re. 1 for everyday after the date of the first conviction during which the offender is proved to have persisted in the offence.

Schedule "A"

Specification for soakage pits

1. Soakage pits should be about 5 ft. square or circular with a diameter of 5 ft. and should be 6 ft. deep.
2. When dug the earth taken out should be used for raising the edges of the pit above the surrounding surface so that the rain may not wash earth into them and clog them up ; any surplus earth should be used to fill up any hollows and depressions closeby.
3. The pits should be filled with broken bricks, stones, etc. over 1" in diameter and the sullage drain should lead into the center of these pits.
4. A basket containing a little grass should be put under the pipe to catch any greasy matter which might reduce the efficacy of the soakage pit.
5. A sketch of the pit is appended with rhe rules.

III. Model bye-laws preventing damage to Gaon Panchayat property

[Under section 112 (1) (c)]

1. In these bye-laws the term "land" and "building" denotes any land or building which belongs to Gaon Panchayat or is under the control or management of the Gaon Panchayat.
2. No person shall deface, otherwise spoil or damage any building, public street or appurtenances thereto or any other property belonging to or vested in the State or any local authority or Gaon Panchayat or being under the control of Gaon Panchayat.
3. No person shall stick bills, advertisement or notice of any kind upon any building or property without the written permission of the Pradhan or the Secretary.
4. No person shall make or cause to be made a drain or water-course on or across a public street belonging to or vested in the Gaon Panchayat without the written permission of the Pradhan or the Secretary and in the manner directed by him which may be granted on the following conditions :

- (1) No person who has received a permit shall construct the drain in such a way which may interfere with the easy passage of traffic over it.
- (2) No person shall let any obstruction remain on any public street or dig or in any way damage, destroy, encroach upon or change the situation or shape, of any road, fence, culvert, drain or boundary stone.

5. No person shall, without the permission of the Pradhan or Secretary cut or injure trees or fences on any public street or place or fruit print or flower or grab up or cut grass in any place which is owned by the Gaon Panchayat.

6. No person shall use any land or building unless he has received a lease thereof or written permission from the Pradhan or Secretary.

7. Any person holding on lease any land or building shall, if so required by the Gaon Panchayat, vacate the land or building, without any objection on the termination of the lease.

8. No one shall cut any tree or its branches from civil benap forest within the maintenance or control of the Gaon Panchayat or cause any damage to the same without the permission of the Pradhan or Secretary where the management of such forest has been entrusted to Gaon Panchayat.

9. No person shall be entitled to use, occupy any public street or place for the sale of articles or for the exercise of any calling or for the selling of any stuff without the permission of the Gaon Panchayat.

10. No person shall without the permission of the Gaon Panchayat collect any market toll on public streets.

11. Persons driving, leading or propelling a vehicle along a road shall keep to the left and when passing a vehicle going in the same direction keep to the right of that vehicle.

12. No person shall drive a vehicle or lead or drive any animal on the portion of public ways or bridge closed for repairs or interfere in any manner with a mark or post put on the road or the bridge for this purpose.

13. The right of temporary occupation of public way or place or property vested in or entrusted to the management of the Gaon Panchayat for the purpose of using the places as stands or parks for carts and other conveyance shall be leased by auction to such persons as the Gaon Panchayat may by resolution decide in each case.

Penalty

In exercise of the powers conferred by section 98 of the Panchayat Raj Act, the Gaon Panchayat hereby directs that a person found guilty of a breach of any of the above bye-laws by the Nyaya Panchayat shall be punishable with a fine which may extend to Rs. 10 and if the breach is a continuing one with a further fine which may extend to Re. 1 for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

IV—Model bye-laws regulating sanitation, conservancy and drainage in the area of Gaon Panchayat

[Under section 112 (1) (d)]

1. No person shall deposit or store or cause to be deposited or stored, filth, manure, rubbish, refuse, garbage, nightsoil, carcass, or other offensive or putrid matter on any land within fifty yards of a public place, street, lane, place of worship, well or tank, otherwise than in places marked for the same by the Gaon Panchayat in suitably sized pits at least 4 ft. deep with a covering of 12ft of earth all over so as to prevent effectively odour, nuisance, fly breeding and unsightly appearance. The pits shall be at sites appointed by the Gaon Panchayat for the purpose, and shall be within easy reach of the

house from which collections are brought. Nothing in clause (1) shall affect the right of a person to manure his fields.

2. Gaon Panchayat may, on payment, arrange for the collections, storage and sale of filth belonging to any person.

3. No person shall use a Gaon Panchayat drain as latrine or urinal.

4. No person shall without the permission of the Gaon Panchayat use any place within 220 yards of the *ababi* for the purpose of dyeing or tanning of skin, for storing hides, horns, bones or skins.

5. No person shall store "senai" (jute, flex, or hemp) to rot in pits, tanks or collections of water used for drinking purposes or situated within 400 yards of dwelling-houses.

6. Whenever any animal in charge of a person dies otherwise than by being slaughtered for sale, consumption, or a religious purpose, the person in charge thereof shall within 24 hours of its death convey the carcasses to a place fixed by the Gaon Panchayat for the disposal of dead bodies of animals or to at place a least 220 yards beyond the *ababi* and have the same buried after it has been skinned, if necessary.

7. No person shall deliberately foul the village site so as to create a public nuisance.

8. No person shall apply raw night-soil to land for agricultural purposes unless it has been properly composted or trenched for a sufficient period as is necessary to make the night-soil dry and indorous to the satisfaction of the Gaon Panchayat or an officer of the Public Health Department not below the rank of Sanitary Inspector.

9. The Gaon Panchayat may by notice require the owner or the occupier of a building or land which has for any reason been abandoned or neglected and is or is likely to become a public nuisance or to impair the health, safety and convenience of the inhabitants of the surrounding area, to secure and enclose the same within one month from the date of the receipt of the notice.

10. Should any building or land be in a filthy or unwholesome state the Gaon Panchayat may require the owner or the occupier thereof to cleanse or otherwise put in a proper state and thereafter to keep the same in a clean and proper state.

11. No owner or occupier of any building or land shall allow dirt, dung, bones, ashes, night-soil or filth or any noxious offensive matter to be kept on the building or land more than 24 hours or otherwise than in some properly covered receptacle provided for the purpose.

12. No person shall make any excavation except a pit for compost making inside a village or within half a mile of it unless it is drained to the satisfaction of the Gaon Panchayat or is filled up with some non-putrefiable material.

13. The Gaon Panchayat shall specify particular tanks or hollows within the village from which only earth required for building purpose shall be taken and from no other place.

14. No latrine shall be allowed to open on any public street or place, unless it is hidden from public view by a masonry wall or screen of non-absorbant material.

15. No *sandas* or drop latrine shall be allowed in any house or building.

16. Any latrine provided shall conform to design that may be approved by the Gaon Panchayat.

17. No sweeper shall carry filth or other offensive matter in the village uncovered and exposed to view and winds within the inhabited area.

18. (a) No person shall defecate or wash perieneum within 50 yards of the outermost houses otherwise than in a served bore-hole or a septic tank, latrine and that after defecation in the open, faecal matter shall be fully covered with earth alround, to prevent fly-breeding and nuisance.

Note—The rule shall not apply to persons old, infirm or sick and to children up to 7 years of age.

(b) The head of the family, parent, or guardian of an infant, any member of the family or any other person attending on the sick or entrusted with the care of an infirm person shall not allow any infant, sick or infirm person to defecate at any public place within 50 ft. of any lane, street, place of worship, well or tank and see that the night-soil of the infant, sick or infirm person is fully covered with earth alround or otherwise suitably and promptly collected, removed and disposed of to prevent fly-breeding and nuisance.

19. For the convenience of ladies Gaon Panchayats shall receive some suitable places for defecation and fixed time both in the morning and evening. The time so fixed shall not be less than two hours in the morning and two hours in the evening.

20. Gaon Panchayat shall change such place and time according to the season of the year.

21. During the time so fixed no male person shall be allowed to go towards the place reserved for ladies.

22. Without written permission of the Gaon Panchayat no one shall be allowed to carry on dyeing and tanning of skin within 220 yards of the *abadi* or 50 yards of any public place.

23. Dyeing and tanning of skin shall be carried out in an enclosure whose wall shall be at least 6 ft. high.

Piggeries

24. No person shall keep pigs within the limits of the Gaon Sabha without the permission of the Gaon Panchayat.

25. (1) A piggery shall consist of partly of a well-ventilated sty and partly of an open courtyard surrounded by a wall not less than 6 ft. in height.

(2) The pens provided for the piggery should be made *pucca*.

(3) All waste in the piggery should be suitably disposed of to the satisfaction of the Gaon Panchayat.

(4) All residential and sleeping rooms attached to the piggery should be effectively separated by complete substantial walls with windows opening into external or some space at least 6 ft. wide.

(5) Piggery premises should be kept neat and clean.

(6) No person suffering from an infectious or contagious disease shall be allowed to partake in the business.

(7) Pigs shall be fed on wholesome diet and shall not be allowed to stray outside the premises at any time of day or night unattended.

26. No pigs shall be slaughtered in a place open to public view.
27. The piggery shall be open to inspection by the Pradhan, Secretary of the Gaon Panchayat or officers of the Public Health Department not below the rank of a Sanitary Inspector.
28. No piggery shall be allowed within 50 ft. of a dwelling house, other than that of a keeper of the pigs.

Penalty

In exercise of the powers conferred by section 98 of the Panchayat Raj Act, 1947 the Gaon Panchayat hereby directs that a person found guilty of a breach of any of the above bye-laws by the Nyaya Panchayat shall be punishable with a fine which may extend to Rs. 10 only and if the breach is a continuing one with a further fine which may extend to Re. 1 for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

SCHEDULE V

GAON PANCHAYAT AND NYAYA PANCHAYAT SERVANTS (PUNISHMENT AND APPEAL) RULES

1. These rules shall be called the Gaon Panchayat and Nyaya Panchayat Servants' (Punishment and Appeal) Rules.
2. These rules shall come into force at once and shall apply to the Panchayat Secretary and other servants of Gaon Sabha and Nyaya Panchayats drawing a pay of Rs. 30 per mensem or above.
3. **Punishments.**—The following penalties may, for reasons to be recorded in writing, be imposed by the Gaon Panchayat or by an officer to whom such power has been delegated by the Gaon Panchayat, on any servant of the Gaon Sabha and, by the prescribed authority (as referred to in section 25 and 25-A of the Act) on any servant of the Nyaya Panchayat or on Panchayat Secretary :

- (a) Formal censure.
- (b) Fine of an amount not exceeding one month's pay.
- (c) Withholding of increments, including stoppage at an efficiency bar.
- (d) Recovery from pay of the whole or part of any pecuniary loss caused to Panchayat or Government by negligence or breach of an order.
- (e) Reduction to a lower post or time-scale, or to a lower stage in a time-scale.
- (f) Suspension.
- (g) Removal from service,
- (h) Dismissal from service :

Provided that the penalty specified in clause (b) above shall not be imposed on any person who is not an inferior servant.

Explanation.—(1) The discharge of a person—

- (a) appointed on probation, during the period of probation, or
- (b) appointed otherwise than under contract to hold temporary appointment on the expiration of the period of appointment, or
- (c) engaged under contract, in accordance with the terms of his contract,

shall not be deemed to be a removal or dismissal within the meaning of this rule or rule 4.

(2) The discharge of a person appointed to hold temporary appointment before the expiration of the period of his appointment not being within the scope of clause (b) of the explanation to rule 3 above amounts to removal or dismissal within the meaning of that rule.

4. (1) No order (other than an order based on facts which had led to his conviction in a criminal court or by a court martial) or dismissal, removal or reduction in rank (which includes reduction to lower post or time-scale, or to a lower stage in a time-scale but excludes the reversion to a lower post of a person who is officiating in higher post) shall be passed on an employee of the Gaon Sabha, Nyaya Panchayat or a Panchayat Secretary, unless he has been informed in writing of the grounds on which it is proposed to take an action and has been afforded an adequate opportunity of defending himself. The grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges which shall be communicated to the person charged and which shall be so clear and precise as to give sufficient indication to the charged person of the facts and circumstances against him. He shall be required within a reasonable time to put in a written statement of his defence and to state whether he desires to be heard in person. If he so desires or if the authority concerned so directs, an oral inquiry shall be held in respect of the allegations as are not admitted. At the inquiry oral evidence shall be heard and the person charged shall be entitled to cross-examine witnesses, to give evidence in person, and to have witnesses called as he may wish, provided that the officer or person conducting the inquiry may, for special and sufficient reasons to be recorded, refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and a statement of the findings and the grounds thereof. After the inquiry has been completed the punishing authority shall pass final order without delay.

(2) In the case of other punishments specified in rule 3, wherever the punishing authority is satisfied that good and sufficient reasons exist for adopting such a course, it may impose any one of these penalties :

Provided that it shall not be necessary to frame formal charges against the person concerned or to call for his explanation.

(3) This rule shall not apply where the person concerned has absconded or where it is for other reasons impracticable to communicate with him. All or any of the provisions of the rule may, for sufficient reasons to be recorded in writing, be waived where there is difficulty in observing exactly the requirements of the rule and those requirements can, in the opinion of the inquiring officer be waived without injustice to the person charged.

5. (a) A servant of the Gaon Sabha or the Nyaya Panchayat or Panchayat Secretary against whose conduct an inquiry is contemplated or is proceeding, may be placed under suspension pending the conclusion of the inquiry in the discretion of the punishing authority.

N. B. As a rule, suspension should not be resorted to unless the allegations against the employee concerned are so serious that in the event of their being established, they may ordinarily be expected to warrant his dismissal, removal or reduction. Suspension, where deemed necessary should as far as possible immediately precede the framing of charges and their communication to the servant charged.

(b) Where in the case of a servant of the Gaon Sabha or the Nyaya Panchayat or a Panchayat Secretary placed under suspension, as provided hereinbefore, the enquiry into his conduct results in his dismissal or removal from the service, the order of dismissal or removal shall take effect from the date on which the suspension had come into effect. In other cases in which the inquiry does not result in the

removal or dismissal of the servant concerned, his suspension will be deemed to have been covered under clause (f) of rule 3.

Note.—No counsels should be allowed in departmental proceedings unless there are very exceptional circumstances when they may be permitted with the previous sanction of the Director of Panchayats.

6. Appeals.—(i) A servant of the Gaon Sabha other than a Secretary may prefer an appeal against the imposition of any of the penalties specified in rule 3—

(a) to the prescribed authority (as referred to in sub-section (3) of section 25 of the Act where an original or appellate order imposing or enhancing or confirming the punishment is passed by the Gaon Panchayat, and

(b) to the Gaon Panchayat, where an order is passed by an officer to whom such powers have been delegated by the Gaon Panchayat.

(ii) An appeal against the order of the prescribed authority imposing the punishment of removal or dismissal on the Panchayat Secretary any of the penalties specified in rule 3 on a servant of the Nyaya Panchayat shall lie to the District Magistrate :

Provided that in the case of other penalties specified in rule 3, the absence of a right of appeal shall not debar the Panchayat Secretary from making a representation against the imposition of any one of these penalties to the authority next higher to the punishing authority :

Provided further that the Panchayat Secretary may submit a revision application to the Director of Panchayats against the order of the District Magistrate confirming or enhancing the punishment originally imposed :

Provided also that if in the opinion of the Director of Panchayats or the State Government injustice has been caused in any case, the Director of Panchayats or the State Government may any time, call for the records of the same and pass such order as may be deemed fit and proper.

(iii) The appellate authority may set aside, reduce, enhance or vary the punishment.

7. An appeal or revision application must be submitted within three months of the order appealed against :

Provided that the time taken in obtaining copy of the order appealed against shall be excluded in computing the period of limitation aforesaid.

8. In the case of an appeal against an order imposing any of the penalties specified under rule 3, the appellate authority shall consider—

- (a) whether the facts on which the order was based have been established ;
- (b) whether the facts established afford sufficient ground for taking action ; and
- (c) whether the penalty is excessive, adequate or inadequate ; and after such consideration shall pass such order as it thinks proper.

9. Every person preferring an appeal or revision application shall do so separately and in his own name.

10. Every appeal or revision application preferred under these rules shall contain all material statements and arguments relied on by the appellant and shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal or revision application shall be submitted through the head of

the office to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred.

11. Every appeal or revision application shall be forwarded to the appellate prescribed authority by the authority from whose order the appeal or revision is preferred with an expression of opinion.

12. An authority from whose order an appeal or revision is preferred under these rules shall give effect to any order made by the appellate authority.

13. The pay and allowances of an employee of a Gaon Sabha or Nyaya Panchayat or of a Panchayat Secretary who is removed or dismissed from service cease from the date of such removal or dismissal.

14. An employee of the Gaon Sabha or Nyaya Panchayat or a Panchayat Secretary under suspension is entitled to a subsistence allowance of such amount not exceeding one-fourth of the pay, as the suspending authority may direct.

Note.—(1) The suspending authority may appoint a substitute in place of an employee under suspension provided that the additional expenditure involved does not exceed Rs. 250 and that the period of suspension does not exceed six months. In other cases, it must obtain the previous sanction of the State-Government to the employment of such a substitute.

(2) The word 'substitute' means the substitute appointed in the resultant vacancy or at the bottom in the chain of arrangements.

Explanation.—Additional expenditure means the excess of subsistence allowance of the employee under suspension plus the pay of the substitute over the pay of the post.

15. When the suspension of an employee is held to have been unjustifiable or not wholly justifiable, or when an employee who has been dismissed, removed or suspended is re-instated; the revising or appellate authority may grant to him for the period of his absence from duty—

(a) if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed, removed, or suspended and by an order to be separately recorded any allowance of which he was in receipt prior to his dismissal, removal or suspension, or

(b) if otherwise, such proportion of pay and allowance as the appellate authority may prescribe.

In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b), it will not be treated as a period spent on duty unless the revising or appellate authority so directs.

SCHEDULE VI

Rules regulating Appointment and other Conditions of Service of Panchayat Secretaries.

1. **Definition.**—In these Rules unless there is anything repugnant in the subject or context :

'Director' means the Director of Panchayats, Uttar Pradesh, and includes Joint Director of Panchayats, Uttar Pradesh.

2. **Source of recruitment and reservation of Post.**—The selection of Panchayat Secretaries shall be done every year afresh in the month of November and the selection shall be positively announced by the end of December. The District Panchayat Officers shall assess the number of vacancies likely to occur during the next calendar year by October and shall announce the same. The

post shall be advertised in the local Panchayat Magazine and important local papers and magazines. Applications for the posts of Panchayat Secretaries shall be invited as far as possible through the Employment Exchange. Eighteen percent of the total vacancies shall be reserved for Scheduled Caste; provided sufficient candidates of at least the minimum prescribed qualification are available. When the recruitment in any one year fails to produce the required number of qualified candidates of Scheduled Castes, the deficiency will be made good in the following two years if suitable candidates are available. The unutilized quota shall not, however, be carried forward for more than two years. Care shall also be taken to secure reasonable representation of Backward Classes as well.

Qualifications

3. Nationality, domicile and residence.—Candidates must be residents of Uttar Pradesh, and must satisfy the requirements of general domicile rules.

4. Academic qualification.—Candidates must have passed the High School Examination of the Board of High School and Intermediate Education, Uttar Pradesh, [* * *]¹ or any examination declared by the Governor as equivalent thereto. Other things being equal, preference will be given to candidates who possess Diploma in Agriculture, or who have passed the Patwari Examination and possess rural bias :

Provided that the existing incumbents on the posts of Panchayat Secretaries who were appointed prior to the promulgation of these rules and possess the qualifications laid down in old Rules but do not possess the qualifications laid down herein shall be treated as qualified for the purpose of this Rule :

Provided further that the exemptions from prescribed qualification may be granted by the State Government in suitable cases.

5. Age.—A candidate must have attained the age of 20 years and must not have attained the age of 30 years on the first day of January next : provided that if a candidate would have been entitled in respect of his age in any year in which no such selection was held, he shall be deemed to be eligible at the following selection. The upper age limit shall be greater by 4 years and 5 years for fighters of freedom and Scheduled Caste candidates, respectively.

2[5-A] The State Government may grant exemption from the upper age limit up to four years in the case of—

- (1) dependants of persons who lost their lives in the course of struggle for freedom, and
- (2) sons and nephews of persons who were arrested and confined in Jail during the course of struggle for freedom and due to which confinement such sons and nephews were unable to continue their studies.]

6. Character.—The character of a candidate must be such as to qualify him for the employment in the service. It shall be the duty of the appointing authority to satisfy on this point.

7. Procedure of selection.—A candidate shall submit his application for selection in the form attached herewith. The application shall be accompanied with Treasury Challan for rupees one which shall be credited to the "Head-46-Miscellaneous-C-Income from Advertisements."

1. Deleted by notification no 981-P-XXXIII-293-53 dated May 1, 1960, published in U. P. Gazette Part II, dated May 5, 1960.

2. Added by Notification No. 3521-P/XXXIII-507-55 published in U. P. Gazette, Part III dated August 12, 1961.

8. The selection shall be made by a Committee consisting of :—

- (a) The District Magistrate,
- (b) District Panchayat Officer,
- (c) Chairman District Board,

presided over by the District Magistrate.

9. The Committee shall scrutinise the application and call for interview candidates equal to four times the number of vacancies announced under rule 2. The selection Committee after assessing the stability of the candidates to the posts shall draw up two lists. List I shall contain the name equal to the number of posts advertised which shall be arranged in order of merit. List II shall contain the names equal to double the number of posts advertised in order of merit.

10. Appointments.—No candidates shall be appointed to the posts unless he is good in mental and physical health and free from any physical defect likely to interfere with the efficient discharge of his duties as a Panchayat Secretary. Before the appointment the candidates shall be required to furnish a medical certificate of health from a registered medical practitioner.

11. Appointments to the posts advertised under rule 2 shall be made by District Panchayat Officer who will be appointing authority in respect of the Panchayat Secretaries from the first-list in order of merit. The candidates brought on list II will be appointed against officiating and temporary vacancies. The list II will, however, hold good only for one year. If the list has exhausted before the close of the year, District Panchayat Officer may appoint most suitable candidate to the post falling vacant subject to the condition that such appointments shall hold good only for the period till a fresh selection is made by the Selection Committee.

12. Training.—The candidates shall have to undergo such training as may be prescribed from time to time by the Director.

13. Scale of pay.—The rates of monthly pay admissible to the persons appointed to the posts of Panchayat Secretaries whether in a substantive or in an officiating capacity or temporary measure shall be Rs. 52—2—0—EB 3—75.

14. Annual increments.—(a) The grant of annual increments to Panchayat Secretaries shall be governed by the provisions of Fundamental Rule 24—26 of Financial Handbook, Volume VI Parts II to IV.

(b) The increments shall be granted by District Panchayat Officers. If the increment is not sanctioned by the District Panchayat Officers, within one year after the date on which the increment fell due, prior sanction of the District Magistrate will be necessary to the grant of such increment. If however, the increment is also not sanctioned by the District Magistrate within a period of two years from the date on which the increment fell due, then previous approval of the Director will be necessary before the increment is allowed.

15. Promotion.—Panchayat Secretaries having requisite qualifications will be entitled for promotion to the posts of clerks in the offices of the Panchayat Inspectors and 5 per cent of such vacancies shall be reserved for them. Panchayat Secretaries shall also be eligible for promotion to the posts of Panchayat Inspectors.

16. Transfer.—A Panchayat Secretary shall ordinarily be posted in the district of his residence but not to the Nyaya Panchayat circle of his residence. He shall reside within the circle of his posting but in special circumstances exemptions may be granted by the District Panchayat Officers.

17. Panchayat Secretaries shall not be transferred from the district of their posting to another district without the approval of the Director.

18. Leave.—The grant of leave to Panchayat Secretaries shall be regulated by the leave rules applicable to the non-gazetted Government servants as contained in Financial Handbook, Volume II, Parts II to IV.

SCHEDULE VII¹

Rules regulating borrowing and lending of money by Gaon Sabhas

1. A Gaon Sabha may borrow money from any other Gaon Sabha on the security of the Fund of any portion thereof constituted under section 32 of the Act.

2. When a Gaon Sabha applies for loan from any other Gaon Sabha it shall submit an application to the District Panchayat Officer stating the details specified below, together with a copy of the resolution of the Gaon Sabha to this effect :—

(1) the purpose for which the loan is required and an estimate of the cost of the entire work or such part of it as is proposed to carry out from the loan,

(2) the amount which it is proposed to borrow,

(3) the Gaon fund on the security of which it is proposed to borrow money,

(4) the date by which the money is required,

(5) the date and method by which it is to be repaid,

(6) Statements of income and expenditure for the last 3 years and statement of assets and liabilities of the Gaon Sabha applying for loan.

3. The District Panchayat Officer shall, on receipt of the application, make necessary inquiries into the facts of the application and the utility and feasibility of the purpose for which the loan is asked for. After the District Panchayat Officer has satisfied himself that the loan is required to carry out any of the purposes of the Act, regarding the utility of the loan applied for, and the capacity of the borrowing Sabha to repay the loan with reference to its financial position, he may allow the Sabha to apply for the loan to the other Gaon Sabha, if its amount does not exceed Rs. 1,000 and if it exceeds that amount, he may forward the application to the Director of Panchayats with his recommendations.

4. Where the amount of loan exceeds Rs. 1,000 and the application is forwarded to the Director/Joint Director of Panchayats, the Director/Joint Director of Panchayats shall return the application to the District Panchayat Officer after passing his orders thereon. If the request for loan is approved by the Director/Joint Director of Panchayats, the District Panchayat Officer shall forward the application to the Gaon Sabha from which the loan is asked for, for action in accordance

1. Added by notification No. 81-P-XXXIII-99-58 dated 24—1—58.

with the standing rules and orders. On receipt of the sanction of the District Panchayat Officer or the Director/Joint Director of Panchayats as the case may be, the terms and conditions of loan will be settled amongst Gaon Sabhas concerned subject to the approval of the District Panchayat Officer or the Director/Joint Director of Panchayats as provided under section 36 of the U. P. Panchayat Raj Act.

5. The Gaon Sabha shall not without the previous approval of the District Panchayat Officer, if the amount of loan does not exceed Rs. 1,000 or if the loan exceeds Rs. 1,000 the Director/Joint Director of Panchayats as the case may be, vary dates within which the raising of the loan, or of the first instalment of it, has been sanctioned and that if loan is raised by instalments, the Gaon Sabha shall report for the previous approval of the sanctioning authority, the dates within which each further instalment is to be raised.

6. (1) The Panchayat Inspector shall make periodical inspections and check the accounts of the Gaon Sabha for ascertaining whether the money borrowed is duly applied to the purpose for which it has been borrowed and that the unspent balance of the loan is not employed otherwise than in accordance with these instructions.

(2) Every work to be carried out by the borrowed money and the account connected therewith shall be open at all times to inspection by :—

- (i) an officer not below the rank of Assistant Engineer in whose jurisdiction the work is situated,
- (ii) officers of the Panchayat Raj Department not below the rank of Panchayat Inspector or officers of Revenue Department not below the rank of Naib Tahsildar, and
- (iii) any person specially authorised by the State Government or the Director/Joint Director of Panchayats in this behalf.

7. (1) If any money borrowed in accordance with the above-mentioned rules or any interest or cost due in respect thereof is repaid according to the conditions of the loan, the Director/Joint Director or Panchayats on the application of the lender, may attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Director/Joint Director of Panchayats, shall in any way deal with the attached fund, but such officer may do all act in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceed in satisfaction of the loan and of all interests and cost due in respect thereof all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law but all such prior charges shall be paid out of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made :

Provided further that such attachment shall not affect any order of attachment of such fund received from a court of law.

(2) When the State Government or the Director/Joint Director of Panchayats, decide to attach any funds, the following procedure shall be observed.

(a) It shall issue a notice to the Gaon Sabha prohibiting the collection or management of such funds by the Gaon Sabha and vesting the administration.

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FORM A—Register of members

PART I—Family Register

Name of Gaon Sabha.....Name of Nyaya Panchayat.....
Name of village.....Tahsil.....District

House No.	Serial No.	Name of head of the family	Name of members of the family	Father's husband's name	Male or female	Religion (caste in case of Scheduled caste)	Date of birth, if known or probable date of birth	Occupation	Literate or illiterate (if literate give details of qualifications)	Date of leaving the circle or date of death	Remarks

FORM A

PART II—Adult Register

Name of Gaon Sabha.....Name of Nyaya Panchayat.....
Name of village.....Name of Constituency.....Tahsil.....District

Serial No.	House No.	Name	Father's/ husband's name	Male or female	Religion (caste in case of Scheduled Caste)	Date of birth	Literate or illiterate (If illiterate give details of qualifications)	Remarks

NOTE—In the remarks column the number and date of the order, if any, by which any name is added or struck off should be given along with the signature of the person making the entry.

FORM B—[Deleted]

FORM C—Annual Estimate of Income and Expenditure

For the year.....

Name of Gaon Sabha..... Tahsil..... District.....

INCOME

Head and Items						
	Actuals of past year	Estimate of current year	Actuals for first six months of current year	Revised estimate of current year	Annual estimate of income and expenditure	Remarks
	2	3	4	5	6	7
I—GOVERNMENT GRANTS—						
1. Education—						..
(a) Recurring						..
(b) Non-recurring						..
2. Medical—						..
(a) Recurring						..
(b) Non-recurring						..
3. Public Health—						..
(a) Recurring						..
(b) Non-recurring						..
4. Roads—						..
(a) Recurring						..
(b) Non-recurring						..
5. Other purposes						..
(a) Recurring						..
(b) Non-recurring						..
II—OTHER RECEIPTS FROM GOVERNMENT UNDER THE ACT.						
(a) Recurring						..
(b) Non-recurring						..
III—TAXES, RATES AND FEES—						
1. Tax on—						..
(a) Revenue/Rent [section 37 (1) (a) and (b)]						..
(b) Animals and vehicles [section 37 (1) (d)]						..
(c) For cleaning latrines and drains [section 37 (1) (i)]						..
(d) Buildings [section 37 (1) (j)]						..
2. Fees—						..
(a) On trade, calling and profession [scction 37 (1) (c)]						..
(b) For sale of goods in market [section 37 (1) (e)]						..
(c) For registration of animals sold [section 37 (1) (f)]						..

I

2 3 4 5 6 7

3. Rate—

For water supplied [section 37 (1) (h)] ..

4. Other income ..

IV—EDUCATION :

1. Fees from schools, if any ..
2. Contribution from other local bodies ..
- (a) Recurring ..
- (b) Non-recurring ..
3. Subscription from other sources ..
4. Other receipts ..

V—MEDICAL :

1. Receipts from patients ..
2. Sale of medicines ..
3. Income from endowment ..
4. Contribution of local bodies ..
5. Subscription from other sources ..
6. Other receipts ..

VI—PUBLIC HEALTH :

1. Sanitary fees and fines ..
2. Contributions from private persons ..
3. Contributions from local bodies ..
4. Other receipts ..

VII—RECEIPTS :

Nyaya Panchayat ..

VIII—RECEIPTS :

Fairs, exhibitions and markets ..

IX—RECEIPTS :

1. Rents of buildings and land (other than nazul) ..
2. Sales of immovable property other than nazul) ..
3. Rent of nazul buildings and lands ..
4. Sale proceeds and premium of nazul buildings and land ..

X—MISCELLANEOUS :

1. Sale of old stores and materials ..
2. Contributions from local bodies ..
3. Contributions from private persons ..
4. Sundry receipts ..

XI—EXTRAORDINARY AND DEBT :

1. Loans ..
2. Deposits ..

TOTAL OF HEADS FROM I TO XI

XII—OPENING BALANCE

GRAND TOTAL ..

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EXPENDITURE

Heads and Items	1	Rs. Rs. Rs. Rs. Rs.				
		2	3	4	5	6
I—GENERAL ADMINISTRATION AND COLLECTION CHARGES :						
1. (a) Officers
2. Office establishment
3. Contingencies
4. Payment for audit
(b) Collection charges :						
1. Establishment
Contingencies
II—EDUCATION :						
1. Establishment
2. Contingencies
3. Library and Reading Room
4. Miscellaneous
III—MEDICAL :						
1. Establishment
2. Contingencies
3. Miscellaneous
IV—PUBLIC WORKS :						
1. Construction
2. Repairs
3. Miscellaneous
V—PUBLIC HEALTH :						
1. Establishment
2. Contingencies
3. Maternity and Child Welfare
4. Miscellaneous
VI—NYAYA PANCHAYAT :						
1. Establishment
2. Contingencies
3. Miscellaneous
VII—PROVIDENT FUND :						
With name of department
VIII—MISCELLANEOUS :						
1. Agriculture, Commerce and Industry
2. Census
3. Village Volunteer Force
4. Electric Expenses
IX—EXTRAORDINARY AND DEBT :						
1. Payment of loan
2. Deposits
3. Other advances
X—CLOSING BALANCE (DETAIL)						

Actuals of past year
 Estimate of current year
 Actuals for first six
 months of current year
 Revised estimate of
 current year
 Annual estimate of In-
 come and expenditure
 Remarks

**FORM C (1)—Annual Estimate of Income and Expenditure of
Nyaya Panchayats**

Name of Nyaya panchayat.....

Tahsil

District.....

INCOME

Heads of items	Actuals of past year	Estimate of current year	Actuals for first six months of current year	Revised estimate of current year	Actual estimate of income and expenditure	Remarks
I.—GOVERNMENT GRANT :						
(i) .....	..	..	..	..	..
(ii) .....	..	..	..	..	..
(iii) .....	..	..	..	..	..
	Total of Head I					
II.—COURT FEES AND FINES :						
1. Court fees :	..	..	..	..	..
(i) Civil	..	..	..	..	..
(ii) Revenue	..	..	..	..	..
(iii) Criminal	..	..	..	..	..
2. Fines in criminal cases	..	..	..	..	..
	Total of Head II					
III.—OTHER RECEIPTS :						
(i) Copying fees	..	..	..	..	..
(ii) Summons fee	..	..	..	..	..
(including the cost of summons forms)	..	..	..	..	..
(iii) Inspection of records	..	..	..	..	..
(iv) Miscellaneous :	..	..	..	..	..
(a) .....	..	..	..	..	..
(b) .....	..	..	..	..	..
	Total of Head III					
IV.—OPENING BALANCE						
	Grand Total	..				

EXPENDITURE

1	2	3	4	5	6	7
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. General Administration :						
(a) Officers	..					
(b) Office Establishment	..					
(c) Contingencies (cost of stationary, forms, etc.)	..					
(d) Payment for audit	..					
	Total of Heads 1 to 4	..				
5. The Credit of Government	..					
6. Closing balance	..					

NOTE—Income shown under Head 2 (Court-fees and fines) shall be shown in Expenditure under Head 5 (To credit of Government) as the entire amount delivered from court-fees and fines is to be credited to Government in accordance with section 39 (2) of the Panchayat Raj Act.

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FORM D—Birth and Death Register

Name of village..... Name of Nyaya Panchayat.....
 Name of Gaon Sabha District.....
 Tahsil.....

The register will commence from 1st of January and will close on 31st of December every year.
 After close of register, it will be kept for one year in the Gaon Panchayat Office and by the 15th of January next year it will be sent to District panchayat Office for transfer to Collectorate, Criminal Record Room.
 Serial number shall commence from year to year.
 Separate serial number shall be given for Births and Deaths.

PANCHAYAT RAJ FORM D

BIRTHS*																									
Serial No.		House No.		Name of child if known		Parentsage		Caste or religion		Date of birth		Whether still-born													
1	2	3	4	5	6	7	8	9	10	11	1	2	3	4	5	6	7	8	9	10	11	12	13		
DEATHS*																									
Serial No.		House No.		Name of deceased		Parentsage		Caste or religion		Date of death		Age		Caste or religion		Date of death		Cause of death		District of illness and arrangement of medical call aid, if any		Name of reporter		No. of receipt issued Signature with date	
1	2	3	4	5	6	7	8	9	10	11	1	2	3	4	5	6	7	8	9	10	11	12	13		

*In the end of each month after making total it will be closed. Serial number shall commence from year to year.

FORM No. 1—Annual Report

Year 19 19
 Gaon Panchayat
 Nyaya Panchayat
 Panchayat Inspector, Circle
 Tahsil District

Description	I	Corresponding figures of the previous year if available	Figures of the current year	Remarks
		2	3	
1. Education :				
(a) Number of illiterate adults made literate	...			
(Male)	..			
(Female)	..			
(b) Number of illiterate members of Gaon Panchayat who were made literate	..			
(c) Number of Adult Schools :	..			
(i) Managed entirely by the Gaon Sabha	..			
(ii) Aided by the Gaon Sabha	..			
(d) Number of Primary School for Boys and Girls	..			
(i) Managed entirely by the Gaon Sabha	..			
(ii) Aided by the Gaon Sabha	..			
2. Reading Rooms and Libraries :				
(a) Number of Libraries :	..			
(i) Managed exclusively by the Gaon Sabha	..			
(ii) Number of books	..			
(iii) Aided by the Gaon Sabha	..			
(iv) Number of books	..			
(b) Number of Reading Rooms :	..			
(i) Managed exclusively by the Gaon Sabha	..			
(ii) Number of Newspapers and Magazines	..			
(iii) Aided by the Gaon Sabha	..			
(iv) Number of Newspapers and Magazines	..			
3. Radios :				
(a) Number of Radios purchased by the Gaon Sabha	..			
(b) Number of Radios installed, under the Community Listening Scheme	..			
(c) Number of Radios received in gift	..			
(d) Number of Private Radios	..			
4. Sanitation :				
(a) Number of ghurs which were cleared	..			
(b) Number of pits which were filled	..			
(c) Drains cleaned (number, and lengths in yards)	..			
(d) Number of compost pits dug	..			
5. Medical :				
(a) Number of Dispensaries or Aushdhalayas :	..			
(i) Run exclusively by the Gaon Sabha	..			
(ii) Number of patients provided medical aid	..			
(iii) Aided by the Gaon Sabha	..			
(iv) Number of patients provided medical aid	..			

1	2	3	4
(b) Number of medicines chests :	...		
(i) Given by the Government	...		
(ii) Purchased by the Gaon Sabha	...		
(iii) Number of patients provided Medical aid	...		
(c) Number of Maternity Chests :	...		
(i) Given by the Government	...		
(ii) Purchased by the Gaon Sabha	...		
(iii) Number of patients provided Medical aid	...		
(iv) Number of midwives	...		
(Trained)	...		
(Untrained)	...		
6. Health :			
(a) Number of Akharas and Gymnasiums run by the Gaon Sabha	...		
(b) Average number of daily participants	...		
7. Construction and repair of roads and drains :			
(a) New roads constructed (length in miles and yards) pakka/kachcha	...		
(b) Kachcha roads converted into metalled ones (length in miles and yards)	...		
(c) (i) Roads fitted with kharanja (length in miles and yards)	...		
(ii) Roads repaired with kharanja (length in miles and yards)	...		
(d) Old roads repaired (length in miles and yards) pakka/kachcha	...		
(e) Drains constructed (length in miles and yards) pakka/kachcha	...		
(f) Kachcha drains constructed into pakka ones (length in yards)	...		
(g) Drains repaired (length in yards) pakka/kachcha	...		
8. Cleaning and repairs of drinking wells :			
(a) Number of wells pakka/kachcha	...		
(b) Number of wells constructed pakka/kachcha	...		
(c) Number of wells which were repaired pakka/kachcha	...		
(d) Number of wells which were cleaned pakka/kachcha			
9. Bathing platforms or rooms :			
(a) Number of bathing platforms or rooms constructed			
(b) Number of bathing platforms or rooms repaired	...		
10. Panchayatghars :			
(a) On rent	...		
(b) Received in Gift pakka/kachcha	...		
(c) Constructed by Gaon Sabha pakka/kachcha	...		
(d) Number of kachcha Panchayatghars constructed into pakka ones.	...		
11. Gandhi Chabutras :			
(a) Constructed by the Gaon Sabha pakka/kachcha	...		
(b) Number of kachcha Gandhi Chabutras converted into pakka ones			

1

2

3

4

12. Light :

- (a) Number of lanterns on road-- ..
- (i) Old ..
- (ii) Number of old lanterns that have become unse-
viceable ..
- (iii) New ..

13. Tree Plantation :

- (a) Community Forest (area in acres) ..
- (b) Community orchards (area in acres) ..
- (c) Number of new trees planted (excluding those planted
in community orchards or forests) ..
- (i) Number of fruit-bearing trees ..
- (ii) Number of other trees ..
- (d) Number of trees which were planted during the prece-
ding years and are still alive ..
- (i) Fruit bearing trees ..
- (ii) Others ..

New Schemes and other important development work :

15. Birth and death record :

- (a) Total population ..
- (b) Births ..
- (c) Deaths ..

16. Cattle:

- (a) Number of bulls maintained by Panchayats ..
- (b) Number of bulls received from Animal Husbandry
Department ..
- (c) Received in gift ..
- (d) Purchased by Panchayats ..
- (e) Number of cattle treated ..
- (f) Number of cattle exhibitions organised by Panchayats ...

17. Miscellaneous :

- (a) Land acquired by Panchayats for grazing (area in acres) ..
- (b) Land acquired for other public purposes [give details]
(area in acres) ..
- (c) Land received in gift (area in acres) ..
- (d) Uncultivated land made cultivable by Panchayats [area
in acres] ..
- (e) Number of Cooperative Societies ..
- (f) Number of members ..
- (g) Amount of share money ..

18. Number of Gaon Sabhas

19. Income of the Gaon Panchayats :

- (a) Total amount of taxes, rates and fees in arrears ..
- (b) New taxes etc. imposed :
 - (i) Tax ..
 - (ii) Rate ..
 - (iii) Fees ..
- (c) Total of (b) (i) to (iii) ..
- (d) Total of (a) and (c) ..
- (e) Amount remitted—
 - (i) Current ..
 - (ii) Arrear ..
- (f) Amount to be realised—
 - (i) Current ..
 - (ii) Arrear ..

Total

1

2 3 4

(g) Total amount of taxes, rates and realized—	..
(i) Current	..
(ii) Arrear	..
Total	..
Balance—	..
(i) Current	..
(ii) Arrear	..
Total	..
(i) Amount received from the Nyaya Panchayats	..
(j) Income from Gaon Samaj	..
(k) Income from Government Grant (other than Grant for pay of Secretaries)	..
(l) Donations Received—	..
(i) Cash	..
(ii) House (no and estimated value)	..
(iii) Book (no. and estimated value)	..
(iv) Land (area and value)	..
(v) Others (details and value)	..
(vi) Total	..
(m) Any other income	..
(n) Grand Total of (g), (i) (j) (k), (l), and (m)	..
20. Expenditure of the Gaon Panchayats—	..
(i) Pay of employees (other than Secretaries)	..
(ii) T. A. and Stationery allowance to Secretaries	..
(iii) Expenditure on construction and repair of—	..
(a) Panchayatghar	..
(b) Gandhi Chabutra	..
(c) Roads and Drains etc.	..
(d) Wells, tanks and other irrigational works	..
(iv) Community orchards and forests	..
(v) Expenditure on tax collection	..
(vi) Expenditure on lighting	..
(vii) Expenditure on sanitation and health	..
(viii) Expenditure on education etc.	..
(ix) Expenditure of Nyaya Panchayats	..
(x) Expenditure on Gaon Samajas	..
(xi) Other expenditure (give details)	..
Total	..
21. Details of balance—	..
(i) Gaon Sabha funds in the Personal Ledger Account	..
(ii) Balance of Government grant for pay of Panchayat Secretaries in the P. L. A.	..
(iii) Gaon Sabha funds with the Pradhan	..
(iv) Funds in the Post Office Savings Bank Account of in the shape of Savings Certificate	..
Total amount of balance	..

Plate	Date	Signature of Secretary	Signature of Pan- chayat Inspector	Signature of District Panchayat Officer

Note :—(1) The information asked for in serial 1 (d) shall include the Sanskrit Pathshalas and Urdu Maktabs also—
(2) The length of roads shown under Head 7 (a) shall not be included under Head (d).
(3) The name of the donor of a gift of Rs. 100 or more shall be entered in the remarks column along with the actual amount donated.
(4) While filling up the statement care should be taken that the number of the institutions like those of the schools, reading rooms and health centres, established, aided or run by the Gaon Sabhas are entered in the main column, and the number of such institutions which are run by other departments, societies or private persons are entered in the "remarks" column. This practice shall also be observed in other cases such as "number of illiterate", persons who were made literate persons, of the roads and wells, etc.

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FORM No. 2—File cover of Civil and Revenue cases

Name of Nyaya Panchayat		Tahsil	District			
Name of civil or revenue case 1	Date of institution or receipt 2	Valuation of civil case 3	Total amount of fees collected 4	Date of disposal 5		
Name of plaintiff or applicant Parentage.....	Name of defendant or opposite party..... Parentage.....	Name of panchayat forming the bench and bench number.....	1.....Chairman 2..... 3..... 4..... 5.....(Bench number).....Chairman.....]			
Religion..... Age.....		Name of the panchayat giving the decision.....	1..... 2..... 3..... 4..... 5.....			
Place of residence..... Name of Gaon Sabha..... Name of Nyaya Panchayat.....		Date of decision.....				
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Where a revision has been filed, if yes, give the result </div>						
Date of transmission to Record Room..... Period of retention..... Date of weeding.....						
<i>Signature of weeder.....</i>						
<i>(List of the papers enclosed in this file)</i>						
Serial No. 1	Description of the paper 2	Date of closing (filing) 3	Page 4	Date of returning the paper, if any 5	Signature of the recipient 6	Remarks 7

FORM No. 3 File cover of Criminal cases

FORM No. 4

Form of Summons to Accused/Defendant/Judgment-Debtors/other party/Witness.

Form of Summons to Accused/Defendant/Judgment-Debtors/other party/Witness.

Serial No.....
Names of the parties.....
Nature of offence or claim.....
Date and institution.....
Name and description of the persons summoned.....
Whereas this case will be placed before the Nyaya Panchayat, on (date and time).....
.....(at place).....
you.....are hereby required to attend as an
Accused/Defendant/Judgment-Debtors/other party/Witness for giving evidence/o produce the following documents.

SEAL

Signature of the Chairman or any Panch
Date.....19.....

SEAL

Signature of the Chairman or any Panch.
Date.....19.....

FINE REGISTER

Name of Nyaya Panchayat.....
Name of Taluk.....
Name of District.....
Number of pages.....
Commencing from.....
Ending on.....

Signature of Sarpanch.

FORM No. 5—Fine register

Case No. and year	Name of accused	Date	Amount	Amount Recovered			Serial No. of General Cash Book	Details of Credit			Remarks
				No. of receipt	Date	Amount		Date	Amount	Initials	
2	3	4	5	6	7	8	9	10	11	12	13
Rs. a. p.				Rs. a. p.				Rs. a. p.			

NOTE—If any amount is remitted or reduced in revision, the number and date of order and amount involved should be shown in Remarks column.

Gaon Fund Account (General Cash Book)

Name of Gaon Sabha.....
Tehsil.....
District.....
Number of pages.....
Commencing from.....
Ending on

Signature of Pradhan

Gaon Fund/Nyaya Panchayat Fund Account (General Cash Book).

Name of Gaon Sabha/Nyaya Panchayat P. O. Name of Block
— tehsil — district — commencing from —
ending on —

I certify that the cash-book contains —— pages.

Signature of Pradhan/Sarpanch.

Signature of Panchayat Secretary.

Signature of Panchayat Inspector/Assistant Development Officer (Panchayats).

Panchayat Raj Form no. 6

Receipts				Disbursements							
Date	Number of receipt	On what account, from whom with details	Page no. of khata	Amount	Monthly total	Date	Voucher no.	On what account to whom with details	Page no. of khata	Amount	Monthly total
1	2	3	4	5	6	7	8	9	10	11	12
Rs. n.P.								Rs. n.P.			

Note—This account must be closed and balanced at the end of every month and the account signed by the Pradhan Sarpanch. If any subscription, donation or Government grant is received for any particular purpose, a khata shall be opened for the same and Khata number given.

FORM No. 5—Fine register

Case No. and year	Name of accused	Date	Amount	Amount Recovered			Serial No. of General Cash Book	Details of Credit			Remarks
				No. of receipt	Date	Amount		Date	Amount	Initials	
2	3	4	5	6	7	8	9	10	11	12	13
			Rs. a. p.			Rs. a. p.					

NOTE—If any amount is remitted or reduced in revision, the number and date of order and amount involved should be shown in Remarks column.

Gaon Fund Account (General Cash Book)

Name of Gaon Sabha.....
Taluk.....
District.....
Number of pages.....
Commencing from.....
Ending on

Signature of Pradhan

Gaon Fund/Nyaya Panchayat Fund Account (General Cash Book).

Name of Gaon Sabha/Nyaya Panchayat _____ P. O. _____ Name of Block _____
tehsil _____ district _____ commencing from _____
ending on _____

I certify that the cash-book contains _____ pages.

Signature of Pradhan/Sarpanch.

Signature of Panchayat Secretary.

Signature of Panchayat Inspector/Assistant Development Officer (Panchayats).

Panchayat Raj Form no. 6

Receipts				Disbursements							
Date	Number of receipt	On what account, from whom with details	Page no. of khata	Amount	Monthly total	Date	Voucher no.	On what account to whom with details	Page no. of khata	Amount	Monthly total
1	2	3	4	5	6	7	8	9	10	11	12
Rs. n.P.											Rs. n.P.

Note—This account must be closed and balanced at the end of every month and the account signed by the Pradhan Sarpanch. If any subscription, donation or Government grant is received for any particular purpose, a khata shall be opened for the same and Khata number given.

Panchayat Raj Form no. 7

Book no. _____ Receipt no. _____ Name of Gaon Sabha/Nyaya
 Panchayat _____ district _____ Received from Sri/Srimati
 son/wife of _____ resident of _____ through _____
 the sum of Rs. _____ n.P. _____ (in words) _____ on account of _____
 for the period _____

Nyaya Panchayat Case no. _____

Serial no. of Demand and Collection Register _____ of Gaon Sabha.

Date _____

Signature of Pradhan/Sarpanch.

Seal

Signature of payee.

Signature of the person authorised to collect the amount with designation.

Note—The receipt shall be prepared in duplicate with the help of carbon. The original copy shall be given to the payee.

1. Forms 6, 7 subs. by Notification no. 664-8/XXXIII-28-61 dated Feb. 12, 1962 Published in the U. P. Gazette Part III dated Feb. 24, 1962.

FORM No. 8—Form of Proceedings

Date	Name of Panches/members present	Resolution No.	Business transacted	Signature or thumb impression of panches/members
1	2	3	4	5

NOTE—Pradhan and Secretary will sign at the end of proceedings.

Register of Diet Money

Name of Nyaya Panchayat.....
 Tahsil.....District.....
 Number of pages.....
 Commencing from.....
 Ending on.....

Signature of Sarpanch.

FORM No. 9—Register of Diet Money

No. of case	Date of deposit	By whom deposited	Amount deposited	Amount paid	To whom paid	Date of payment	Signature of Sarpanch or Panch before whom payment is made
1	2	3	4	5	6	7	8

Register for the Processes Summons and Notices issued or sent for service

Name of Gaon Sabha.....
Name of Nyaya Panchayat.....
Tahsil.....District.....
Number of pages.....
Commencing from.....
Ending on.....

Signature of Pradhan/Sarpanch.

FORM No. 10

1 Serial No.	2 No. of case	3 Name of person on whom process, summons or notice is issued.	4 Amount	5 Amount	6 Name of person to whom sent for service.	7 Date on which the summons, notice or process is given for service	8 Date of service	9 Date on which the process, summons or notice is returned after service	10 Kind of service	11 Amount	12 Voucher No.	13 Remarks
			Rs. a. p.	Rs. a. p.						Rs. a. p.		

NOTES—(1) In column 2 after case No. Cr., C. R. shall be written for Criminal, Civil or Revenue Case, as the case may be.
(2) Serial No. of the Cash Book will be given in Column 4.
(3) Serial No. shall commence from 1st of April and close on 31st of March every year.

REGISTER FOR INSPECTION OF RECORDS

Name of Gaon Sabha.....
Name of Nyaya Panchayat.....
Tahsil.....District.....
Number of pages.....
Commencing from.....
Ending on.....

Pradhan
Signature of - - -
Sarpanch

FORM No. II—Register for Inspection of Records

Date	Signature and occupation of applicant for inspection	Proceedings or record of which inspection is sought	Capacity in which inspection is sought	Initials of official Ordering inspection	Time occupied in inspection		Amount realized as fee		Remarks
					From	To	S. No of Cash-Book	Amount realised	
1	2	3	4	5	6	7	8	9	

NOTE—In the remarks column serial number of Cash-Book and date should be given.

PASS BOOK

Pass Book.....	Name of Gaon Panchayat	Tahsil.....
Year.....	Nyaya Panchayat	District.....

FORM No. 12—Pass Book

Page NO.

Date of transaction	Amount debited (Receipts)	Amount credited (Disbursements)					Signature of Banker D P O. or with date				
		By whom deposit- ed	Chalan No.	Amount credited	Running Total	Date of transac- tion	To whom cheque issued	No. date	Amount withdrawn	Balance after transac- tion	
1	2	3	4	5	6	7	8	9	10	11	12

Register of Immovable Property

Register or Immovable
Name of Gaon Sabha.....
Name of Nyaya Panchayat.....
Tahsil.....District.....
Number of pages.....
Commencing from.....
Ending on.....

FORM No. 13—Register of Immovable Property

Serial No.	Name of village to which the property belongs	Description, situation and boundaries of the property	Settlement number or number in the Nazul Register, Land Records Department	Village	Number and date of Government Order transferring the management to the Panchayat	Date of acquiring property	Made of occupation and purpose for which used	Number and date of order authorising such occupation and the authority by whom ordered	Name of tenant or lessee, if any, and term of lease	Date of termination of lease	Rent per annum	Signature of Gram Panchayat Officer-in-charge of Gram Panchayat	If held under direct management approximate annual income and sources from which derived	Method of final disposal of property with number and date of Order sanctifying sale, etc., name of purchaser if any, and amount for which sold	Date of annual verification of entries in proceeding columns and signature of verifying officer	If received in donation, the name of donor with full address and registration number donee; if yes, give registration number and date, etc.	If purchased or constructed, its value	Remarks	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

Assessment List

Name of Gaon Sabha.....
 Name of Nyaya Panchayat.....
 Tahsil.....District.....
 Total No. of pages.....
 Commencing from.....
 Ending on.....

*Signature of Pradhan.***FORM No. 14—Assessment List**

Proposed Assessment	Result of appeal, if any	Remarks																	
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Serital No.	House No.	Name of assessee	With father's name.	Address of assessee	Description of trade, calling or profession	Amount of fee assessed	(a) (6) is assessed	Description of land which tax under section 37 (6)	Rent Revenue	Amount of tax assessed	Annual rental value	Amount of tax assessed	Description of other sources of taxation	Amount assessed	Total Amount of tax, rate or fee assessed	Amount reduced or en- hanced (—) or (+)	Amount of tax payable If exempted, ground of	Amount of tax paidable If exempted	Remarks
Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	

NOTES.—(1) Persons who are not resident of the village shall be entered at the end of the list.
 (2) Taxes, fees and rate shall be shown separately.

**FORM No. 16—Detailed Pay Bill of the Establishment of the Gaon
Panchayat/Nyaya Panchayat Fund for the month of 195**

Name of incumbent	Name of post	Pay, acting and leave allowance claimed	Amount of net deduction	Amount payable	Receipt of each payable
			Rs. a. p.	Rs. a. p.	Rs. a. p.

*Deduct—Undisbursed pay refunded as detailed below and other recoveries

Net sum required for payment (in words)

Received contents and certified that I have satisfied myself that all salaries included in bill drawn in the month previous to this date, with the exception of those detailed below (of which the total has been deducted by deduction from this bill) have been disbursed to the proper persons and that, their receipt have been taken in the pay bills with receipt stamps duly cancelled for every payment in excess of Rs. 20.

Dated..... 19

Pay rupees.....

Dated..... 19

Examined and entered.

Signature of Pradhan/Sarpanch

FORM No. 17—Deleted

**FORM No. 18—Deleted
Register of Deposit**

Name of Gaon Sabha.....

Name of Nyaya Panchayat.....

Tahsil.....District.....

Number of pages.....

Commencing from.....

Ending on.....

Signature of Pradhan/Sarpanch

FORM No. 19—Register of Deposit

Serial No.	Number and date of order under which deposited	Date of deposit	Name of depositor	Purpose of deposit	Amount	Signature of Pradhan or Sarpanch	Number and date of order sanctioning return or lapse of deposit	Date or return of lapse	Name of payee	Amount	Balance	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13
			Rs. a. p.					Rs. a. p.	Rs. a. p.			

FORM No. 20-A—*Deleted*

FORM No. 20-B *Deleted*

Register of Public Works

Name of Gaon Sabha.....

Name of Nyaya Panchayat.....

Tahsil.....

District.....

No. of pages :

Commencing from.....

Ending on
.....

Signature of Pradhan/Sarpanch

FORM No. 21—Register of Public Works

Name of Contractor.....

Name of Contractor.....
Number and date of sanction.....

Number and date of sanction..... Name and details of work
Amount of contract of estimate..... sanctioned.

1	Number and date of Bill	2	Number and page of measurement book	3	Quantity up to date	4	Name and details of work	5	Quantity billed for	6	Rate of work	7	Amount of bill	8	Progressive total of expenditure to date	9	Initials of Pradhan or Member	10	Remarks
				Rs. a. p.				Rs. a. p.				Rs. a. p.							

FORM No. 22

—GAON SABHA

Muster roll of men employed on _____ (nature of work) during the month of _____

Rs. a. p. Rs. a. p.

Certified that all the employees shown in the above statement were actually employed in the interest of the Gaon Sabha and that their pay entered in this muster roll was paid in my presence.

Dated _____

Signature of _____
Pradhan
Member

FORM No. 23

(See rule 131)

No. of 196 , dated the of 19 .
Application for the sale Noof/lease of plot of land in the village.....district.....

Name of Gaon Panchayat and tahsil	Brief description of the property and if Nazul property the number and date of Goverment Order placing it under the Panchayat's management	Area	Lease or sale	Rent or price	To whom	Proposed period	Remarks
		A. R. P.		Rs. a. p.			

FORM No. 24

versus

Date of institution

Claim for..... This suit coming on this day for final disposal before the Nyaya Panchayat.....in the presence of the plaintiff/defendant and/or the defendant's agent, it is ordered that.....do pay to the.....the sum of.....

plaintiff's agent and/or the defendant/defendant's agent, it is ordered that.....do pay to the.....the sum of Rs.....

Given under my hand and seal of the Nyaya Panchayat this.....day of.....19.....

(Signature of the Sarpanch)
Nyaya Panchayat

Plaintiff	Costs of the suit			Defendant	Rs. a. p.
	Rs.	a.	p.		
1. Court-fees				1. Court-fees on applications	
2. Other fees or charges				2. Other fees or charges	
3. Subsistence for witnesses				3. Subsistence for witnesses	
4. Service of process				4. Service of process	
5. Miscellaneous				5. Miscellaneous	

Total ...

Total ..

Stock Book

Name of Gaon Sabha _____
 Name of Nyaya Panchayat _____
 Tahsil _____ District _____
 Number of pages _____
 Commencing from _____
 Ending on _____

Signature of Pradhan/Sarpanch.

FORM No. 25—Stock Book

Stock book of dead stock and furniture

for the office of the

live stock and consumable and perishable stores.

Name and description of articles _____ (Chairs, almirahs, etc.)

Date of receipt	Number of pieces	Initial cost (purchase price)	Initials of Officer in charge	Date of inspection	Remarks about the conditions of the articles, etc. as found at time of inspection Orders regarding condemnation	Details and number of articles disposed off	Date of disposal	Value realised	Serial number and date of cash-book where account is charged	Initials of officer in charge	Remarks (regarding reference to papers etc.)
1	2	3	4	5	6	7	8	9	10(a) 10(b)	11	12

NOTE—Separate pages shall be allotted for perishable and dead stock.

FORM No. 26**Receipt for reporting Birth**

Book No..... Receipt No.....

Name of Gaon Sabha.....

1. Date and time of birth.....
2. Place of birth (village and mohalla).....
3. Whether still-born.....
4. Name of child.....
5. Name of father or mother.....
6. Sex.....
7. Caste.....
8. Profession of parents.....
9. Name of person reporting birth.....
10. Signature of Pradhan/Secretary of Gaon Sabha.....

FORM No. 26**Receipt for reporting Birth**

Book No..... Receipt No.....

Name of Gaon Sabha.....

1. Date and time of birth.....
2. Place of birth (village and mohalla).....
3. Whether still-born.....
4. Name of child.....
5. Name of father or mother.....
6. Sex.....
7. Caste.....
8. Profession of parents.....
9. Name of person reporting birth.....
10. Signature of Pradhan/Secretary of Gaon Sabha.....

Note—In case of registration of child-birth without name, it shall be the duty of the head of family to report the name of the child to Pradhan/Secretary of Gaon Sabha within eight months.

Note—In case of registration of child-birth without name, it shall be the duty of the head of family to report the name of the child to Pradhan/Secretary of Gaon Sabha within eight months.

FORM No. 26-A**Receipt for reporting death**

Book No..... Receipt No.....
 Name of Gaon Sabha.....
 1. Date and time of death.....
 2. Place of death (village and mohalla).....
 3. Name of deceased, and name of his/her father, husband, or guardian.....
 4. Sex.....
 5. Caste and profession.....
 6. Age.....
 7. Cause of death.....
 8. Place of cremation or burial.....
 9. Name of person reporting death.....
 10. Signature of Pradhan/Secretary of Gaon Sabha.....

Note—If the deceased be a Pardanasheen woman, the entry of her name shall not be necessary. It will be sufficient to enter the relation which she bears to the head of her family.

FORM No. 26-A**Receipt for reporting death**

Book No..... Receipt No.....
 Name of Gaon Sabha.....
 1. Date and time of death.....
 2. Place of death (village and mohalla).....
 3. Name of deceased, and name of his/her father, husband, or guardian.....
 4. Sex.....
 5. Caste and profession.....
 6. Age.....
 7. Cause of death.....
 8. Place of cremation or burial.....
 9. Name of person reporting death.....
 10. Signature of Pradhan/Secretary of Gaon Sabha.....

Note—If the deceased be a Pardanasheen woman, the entry of her name shall not be necessary. It will be sufficient to enter the relation which she bears to the head of her family.

FORM No. 27
*Deleted***FORM No. 28**
Notice

Sri..... son of..... resident of village.....
 post office..... of district..... is hereby required to deposit a sum of
 Rs..... annas..... pies..... within fifteen days of the receipt of this notice for obtaining a licence
 under section 37 of the U. P. Panchayat Raj Act, and rule 221 framed thereunder as resolved by the Gaon Panchayat.....
 by resolution No..... date..... for carrying on the trade, callings and professions etc.....
 within its jurisdiction and as tax/rate on..... for the current financial year 19.....

Dated..... 19

Signature of Sarpanch.

FORM No. 29**Licence Form**

- (1) Name of the Gaon Sabha.....
- (2) Licence number.....
- (3) Name of Licence.....
- (4) Father's name.....
- (5) Address.....
- (6) Nature of trade, callings or professions etc.....
- (7) Period for which licence is issued.....
- (8) Licence fee charged.....
- (9) Date.....

*Signature.....
Secretary.*

*Signature.....
Pradhan.*

P. R. D. FORM No. 30

Birth Account..... in circle of..... Police Station.....

Date	Name of the village or mohalla	Father's name	Christians		Hindus		Mohammedans		Other classes		Total	
			Europeans	Indians Eurasians	Male	Fe- male	Male	Fe- male	Male	Fe- male	Male	Fe- male
1	2	3			4						5	

FORM No. 31

Name of the deceased and cause of death. Cause of the deceased:

Name of the deceased and cause of death. Caste of the deceased.	Date of death	Name of village and mohalla in which death occurred	Name	Age	Name of father or husband and caste	Christian	Muslims	Chickens pox	Tuberculosis of joints	Other Tubercular diseases	Leprosy	Cancer	Total	Cerebro Spinal Fever		
Typhus Fever			Dysentery and Diarrhoea			Diarrhoea		Pneumonia	Pulmonary tuberculosis	Other respiratory diseases	Whooping cough	Snake-bite	Killed by wild beast	Rabies	Beri Beri	Acute Poliomyelitis
Black water fever						Wounds										Chickens pox
Other fever						Accidents										Mumps
Dysentery						Indians		Other Classes								Tuberculosis
Diarrhoea						Hindu		Cholera								Plague
						Mohammedan		Small-pox								Malaria
						Indians and Anglo-Indians										Enteric Fever
																Measles
																Relapsing Fever
																Kala Azar
																Influenza
																Total death in the circle

U. P. PANCHAYAT RAJ RULES

FORM NO. 32

Extract from the register of deaths in the Circle for the month of Signature of compiler
The 19 19

Extract from the register of deaths in the.....Circle for the month of.....19.....
The.....Signature of compiler.....19.....

	Fever	Male Female Total	Male Female Total (C) Total of all ages		
			Hindu	Mohammedan	Christian
Malaria					
Enteric Fever					
Measles					
Relapsing Fever (Spirochaeta)					
Kala Azar					
Influenza					
Cerebro-Spinal Fever					
Typhus Fever					
Black water fever					
Other Fever					
Dysentery					
Diarrhoea					
Total	From the beginning of the second week to end of the first month	Neonatal death	Christian	European and Anglo-Indian	Indian

Extract from the register of deaths in the..... Circle for the month of..... Signature of compiler.....
S.S.W. NO. 32.—(cont'd.) The..... 19 :
The.....

Signature of compiler

FORM No. 32—(contd)

Extract from the register of deaths in the.....Circle for the month of.....19.....

The.....19.

Signature of compiler.....

	Male	Female	Total	Male			Female			Total		
				Hindu	Other classes	Mohammedan	European and Anglo-Indian	Christian	Indian	Hindu	Other classes	Mohammedan
Rabies												
Beri-Beri												
Acute Poliomyelitis												
Diphtheria												
Chicken-pox												
Mumps												
Tubercular of joints												
Other tuberculosis diseases												
Leprosy												
Cancer												
Deaths from child birth												
Other causes												
All other classes												
Causes of death												

Statement of mortality from Cholera, Small-pox, Plague, Fevers Dysentery and Diarrhoea, and Respiratory diseases in the month of.....196

Name of village	Population	Deaths from Cholera	Deaths from Smallpox	Deaths from Plague	Deaths from Fevers	Deaths from Dysentery and Diarrhoea	Deaths from respiratory diseases	Of these
								<ul style="list-style-type: none"> — were deaths of infants under 1 year of age — were deaths of children of 1 and under 10 years of age — were deaths of persons of 10 and above 10 years Total.....

P. R. D Form No. 33

Monthly return of Births

For the months of.....19.

Panchayat Inspector.....
District.....

Number of births registered

Christians

Europeans, Eurasians and Anglo-Indian	Indians	Hindus	Mohammedans	Other Classes	Total
---------------------------------------	---------	--------	-------------	---------------	-------

| Male | Female | Total |
|------|--------|-------|------|--------|-------|------|--------|-------|------|--------|-------|
| Male | Female | Total |

Birth

*Still Born

*Stillborn mean born dead.
Dated.....

Signature.....
Designation.....

P. R. D. FORM No. 34

Panchayat Raj Circle

Police Station..... Weekly statement of Plague.
Cholera and small-pox for the week ending.....19.

Name of disease	Date of illness	Name of the village	Distance and direction from the Police Station	Total number of patients of the week	Total number of deaths in the week	Remarks if any

Signature and date.....

P. R. D. FORM No 35
Panchayat Raj Circle

Report of Cholera/Small-pox and Plague
Police Station.....

District.....
Date.....

Date of out break	Name of the village	Distance from the Police Station and direction	Number	Victims	Deaths	Remarks (Here write whether patients were local residents or outsiders)

1. Cholera
2. Small-pox
3. Plague

Signature.....

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Register of Registration of Marriages

Name of Gaon Sabha.....

Tahsil.....

District.....

Number of pages.....

Commencing from.....

Ending on.....

Signature of Pradhan.....

FORM No. 36—Register of Registration of Marriages

Serial No.	Date of Registration	Name of husband	Name of husband's father	Place of residence and address	Religion	Caste
1	2	3	4	5	6	7

Date of birth	Name of wife	Name of wife's father	Place of residence	Religion	Caste	Date of birth
8	9	10	11	12	13	14

15	16	17	18	19	20	21	22
Virgin, widow or divorced	Place of marriage	Date of marriage	Form of marriage	Name of person who performed the marriage ceremony with his full address	Name of two witnesses who saw the performance of the marriage with their father's name and full address	Signature or thumb impression of husband and wife	Remarks

FROM No. 37—Certificate of Registration of Marriages

I.....Pradhan of Gaon Sabha.....
 Tahsil.....District.....do hereby certify that the marriage
 between.....and.....which
 is said to have been performed on.....at.....
was registered in this Gaon Sabha.....at serial
 number.....and this certificate is being issued in
 token of the above registration. Full details of parties are given overleaf.

Signature of Pradhan.....

Date.....

Extract from Register of Marriage

Name of Gaon Sabha.....

Name of Nyaya Panchayat.....

Tahsil.....District.....

Serial No.	Date of Registration	Name of husband	Name of husband's father	Place of residence and address	Religion	Casts
1	2	3	4	5	6	7

Date of birth	Name of wife	Name of wife's father	Place of residence & address	Religion	Caste	Date of birth
8	9	10	11	12	13	14

Virgin widow divorced	Place of marriage	Date of marriage	Form of marriage	Name of person who performed the marriage ceremony with his full address	Name of two witnesses who saw the performance of the marriage with their father's name and full address	Remarks
15	16	17	18	19	20	21

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General Ledger of Gaon Sabha

Name of Gaon Sabha
Nyaya Panchayat
Tahsil.....
District.....
Commencing from—.....
Ending on.....
Total number of pages.....

*Signature of Pradhan
Sarpanch*

FORM No. 38

Index.....
Serial number.....
Description of Khata.....
Page number.....

INCOME			EXPENDITURE (if any)				Remarks
Khata number	Description of Khata	Date	Serial No. of cash-book	Amount	Date	Serial No. of cash-book	Expenditure
1	2	3	4	5	6	7	Rs. a. p.

FORM No. 39—Order sheet

Number of order	Date	Order passed	How the order has been communicated to the parties	Remarks
1	2	3	4	5

FORM No. 40—Form of application for land acquisition

Name of Gaon Sabha.....
Tahsil..... District.....

Description of land
Plot No.
Area

Whether any religious buildings, tombs or grave yards above situate on the land and their demolition will be necessary

Whether any alternate site is available in the vicinity.
If yes, give details.

Resolution No. with date

Whether private negotiations to purchase the land were made and have failed.

Signature of Pradhan

NOTE—A copy of the resolution of the Gaon Panchayat should be enclosed with the application.

APPENDIX A

The U. P. Panchayat Raj (Transitional Provisions) Removal of Difficulties (First) Order 1955¹

Whereas difficulties have arisen in relation to the transition from the provisions of the U. P. Panchayat Raj Act, 1947, as it stood prior to its amendments by the U. P. Panchayat Raj (Amendment) Act, 1954 to the provisions of the said Act as amended by the amending Act, aforesaid ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 88 of the U. P. Panchayat Raj (Amendment) Act, 1954, the Governor is pleased to make the following Order :

1. (1) This order may be called the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) First Order, 1955.

(2) It shall come into force at once.

(3) It shall apply to the whole of Uttar Pradesh except the Jaunsar Bhabar Pargana in Dehra Dun and the area of Mirzapur District south of Kaimur Range.

2. Notwithstanding anything contained in the U. P. Panchayat Raj Act, 1947, the terms of office of every member of the Gaon Panchayats and of every Up-Pradhan and Pradhan of Gaon Sabhas and of every Panch and Sarpanch of a Nyaya Panchayat in the area to which this Order applies holding office as such on the day this Order comes into force shall stand extended for a period of six months or until the next general elections of Gaon Panchayats, whichever is earlier.

The U. P. Panchayat Raj (Transitional Provisions) Removal of Difficulties (Second) Order, 1955.²

Whereas difficulties have arisen in relation to the transition from the provisions of the U. P. Panchayat Raj Act, 1947, as it stood prior to its amendments by the U. P. Panchayat Raj (Amendment) Act, 1954, to the provisions of the said Act as amended by the amending Act aforesaid :

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 88 of the U. P. Panchayat Raj (Amendment) Act, 1954, the Governor is pleased to make the following Order :

1. (1) This Order may be called the U. P. Panchayat Raj (Transitional Provision) (Removal of Difficulties) (Second) Order, 1955.

(2) It shall come into force at once.

2. During the period commencing from the twentyfifth day of April, 1955, and until a new Gaon Panchayat or Nyaya Panchayat has been constituted or a new Pradhan or Up-Pradhan has been elected, as the case may be, at the first General Elections held under the U. P. Panchayat Raj Act, 1947 (hereinafter referred to as the Principal Act) next after the commencement of this Order, the provisions of the Principal Act shall in the matter of—

(a) the Constitution of any Gaon Sabha, Gaon Panchayat or Panchayati Adalat ;

1. Published in the U. P. Gazette Extraordinary, dated February 5, 1955, vide Notification No. 433 (2) XXXIII—55, dated February 5, 1955.

2. Published in the U. P. Gazette Extraordinary, dated April 25, 1955, vide Notification No. 1958—XXXIII—368(1)-54, dated April 25, 1955.

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- (b) the qualification and disqualification for membership of any Gaon Panchayat or Panchayati Adalat or for the office of Pradhan or Up-Pradhan of any such Gaon Panchayat;
 - (c) by election to fill a casual vacancy in any such Gaon Panchayat or Panchayati Adalat or the office of Pradhan or Up-Pradhan; or
 - (d) the powers, duties, jurisdiction and functions generally of any such officer or authority;
- continue to have effect as if that Act had not been amended by the U. P. Panchayat Raj (Amendment) Act, 1954.

The U. P. Panchayat Raj (Transitional Provisions) Removal of Difficulties (Third Order), 1955

Notification No. 3420/XXXIII—60-53, dated July 25, 1955.

Whereas difficulties have arisen in relation to transition from the provision of the U. P. Panchayat Raj Act, 1947 as it stood prior to its amendments by the Uttar Pradesh Panchayat Raj (Amendment) Act, 1954, to the provisions of the said Act as amended by the amending Act aforesaid :

Now, therefore, in exercise of the powers conferred by Section (1) of Section 88 of the Uttar Pradesh Panchayat Raj (Amendment) Act, 1954, the Governor is pleased to make the following order :

1. (1) This order may be called the Uttar Pradesh Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Third) Order, 1955.
 (2) It shall come into force at once.
 (3) It shall apply to the whole of Uttar Pradesh except the Jaunsar Bhabar Pargana in Dehra Dun District and the area of Mirzapur District south of Kaimur Range.
2. Notwithstanding anything contained in the U. P. Panchayat Raj Act, 1947, or the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (First) Order, 1955, the terms of office of every member of the Gaon Panchayats and of every Up-Pradhan and Pradhan of Gaon Sabha and of every Panch and Sarpanch of a Nyaya Panchayat in the area to which this order applies holding office as such on the day this order comes into force shall stand further extended up to December 31, 1955 or until the date from which the newly elected Gaon Sabhas, Gaon Panchayats and Nyaya Panchayats start functioning, whichever is earlier.

The U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Fourth) Order, 1955¹

Whereas difficulties have arisen in relation to the transition from the provisions of the U. P. Panchayat Raj Act, 1947, as it stood prior to its amendments by the U. P. Panchayat Raj (Amendment) Act, 1954, to the provisions of the said Act as amended by the Amending Act aforesaid :

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 88 of the U. P. Panchayat Raj (Amendment) Act, 1954, the Governor is pleased to make the following Order :

1. Published vide Notification No. 6290/XXXIII—767-55, dated December, 16, 1955, in the U. P. Gazette, Part III Page 487, December 24, 1955.

1. (1) This Order may be called the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Fourth) Order, 1955.

(2) It shall come into force at once.

(3) It shall apply to all the Districts of Uttar Pradesh other than the Districts of Gorakhpur, Azamgarh, Basti, Deoria (and) Ballia.

2. Notwithstanding anything contained in the U. P. Panchayat Raj Act, 1947, or the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Third) Order, 1955, the term of office of every member of a Gaon Panchayat holding office as such on the day this Order comes into force shall stand further extended upto the date on which constitution of the new Gaon Panchayat is notified under Rule 19-L of the Panchayat Raj Rules.

The U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Fifth) Order, 1955.¹

Whereas difficulties have arisen in relation to the transition from the provisions of the U. P. Panchayat Raj Act, 1947, as it stood prior to its amendments by the U. P. Panchayat Raj (Amendment) Act, 1954, to the provisions of the said Act as amended by the amending Act aforesaid :

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 88 of the U. P. Panchayat Raj (Amendment) Act, 1954, the Governor is pleased to make the following Order :

1. (1) This Order may be called the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Fifth) Order, 1955.

(2) It shall come into force at once.

(3) It shall apply to the Districts of Gorakhur, Azamgarh, Basti, Deoria (and) Ballia.

2. Notwithstanding anything contained in the U.P. Panchayat Raj Act, 1947 or the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Third) Order 1955, the term of office of every member, Pradhan, and Up-Pradhan of a Gaon Panchayat, Sarpanch, Sahayak Sarpanch, and Panch of a Nyaya Panchayat holding office as such on the day this Order comes into force shall stand further extended upto April 30, 1956, or upto the date on which his successor as the case may be is elected under and in accordance with the U. P. Panchayat Raj Act, 1947 and the Panchayat Raj Rules, whichever is earlier.

The U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Sixth) Order, 1956.²

Whereas difficulties have arisen in relation to the transition from the provisions of the U. P. Panchayat Raj Act, 1947, as it stood prior to its amendments by the U. P. Panchayat Raj (Amendment) Act, 1954, to the provisions of the said Act, as amended by the Amending Act aforesaid :

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 88 of the U. P. Panchayat Raj (Amendment) Act, 1954, the Government is pleased to make the following Order :

1. (1) This Order may be called the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Sixth) Order, 1956.

(2) It shall come into force at once.

(3) It shall apply to the districts of Gorakhpur, Azamgarh, Basti, Deoria and Ballia.

2. Notwithstanding anything contained in the U. P. Panchayat Raj Act, 1947 or the U. P. Panchayat Raj (Transitional Provisions) (Removal of Difficulties) (Fifth) Order, 1955 the term of office of every member of a Gaon Panchayat holding office as such on the day this order comes into force shall stand further extended upto the date on which the constitution of the new Gaon Panchayat is notified under Rule 19-L of the Panchayat Raj Rules.

1. Published vide Notification No. 6289/XXXIII—767-55, dated December 16, 1955 in the U. P. Gazette, dated 1 December 24, 1955, Part III, Page 437.

2. Published in the U. P. Gazette Extraordinary, April 28, 1956, vide Notification No. 2554/XXXIII—767-55, dated April 28, 1956.

APPENDIX B

THE UTTAR PRADESH PANCHAYAT RAJ (AMENDMENT) ACT, 1957.¹

(U. P. Act No. XIX of 1957)

[As passed by the U. P. Legislature]

AN ACT

further to amend the U. P. Panchayat Raj Act, 1947, for certain purposes

WHEREAS it is expedient further to amend the U. P. Panchayat Raj Act, 1947, for the purposes hereinafter appearing ;

It is hereby enacted in the Eighth Year of the Republic of India as follows :

1. **Short title and commencement.**—(1) This Act may be called the Uttar Pradesh Panchayat Raj (Amendment) Act, 1957.

(2) It shall come into force at once.

2. **Amendment of section 2 of U. P. Act XXVI of 1947.**—In section 2 of the U. P. Panchayat Raj Act, 1947 (hereinafter referred to as the Principal Act)—

(1) in clause (e) after the word "constituted" the words "and shall, respectively, include 'Additional Collector', 'Additional District Magistrate' and 'Additional Sub-divisional Magistrate' shall be and be deemed always to have been added ; and

(2) after clause (s) the following shall be and be deemed always to have been added as clause (ss)—

"(ss) 'Sub-divisional Officer' includes an Additional Sub-divisional Officer designated or appointed as such by the appropriate authority ;"

3. **Amendment of section 5-A of U. P. Act XXVI of 1947.**—In section 5-A of the Principal Act—

(1) in clause (l) the colon after the figures "1947" shall be deleted and thereafter the words "or the Untouchability Offences Act, 1955 ;" shall be added ;

(2) after clause (l) the following shall be added as new clauses (m) and (n)—

"(m) is blind or dumb ; or

(n) has been removed from office under sub-clause (iii) or (iv) of clause (g) of sub-section (1) of section (1) of section 95 unless such period as has been provided in that behalf in the said section or such

1. Assented to by the Governor on August 14, 1957, and published in U. P. Gazette Extraordinary on August 17, 1957.

lesser period as the State Government may have ordered in any particular case has elapsed ;" and

(3) for the existing provisos the following provisos shall be substituted :

"Provided that the period of disqualification under clause (d), (g), (h), (i), (j), (k) or (l) shall be five years from such date as may be prescribed :

Provided further that the disqualification under clause (e) shall cease upon, payment of arrears :

Provided also that a disqualification under clause (d), (g), (h), (i), (j) (k) or (l) may, "in the manner prescribed, be removed by the State Government."

4. Amendment of section 37 of the U. P. Act XXVI of 1947.—

In sub-section (1) of section 37 of the Principal Act—

- (1) in clause (c) for the word "fee" wherever it occurs the word "tax" shall be substituted ; and
- (2) in clause (e) for the words "fee" and "fees" the words "a tax" and "tax" shall respectively be substituted.

5. Amendment of section 95 of U. P. Act XXVI of 1947.—In sub-section (1) of section 95 of the Principal Act—

- (1) in clause (g)—
 - (i) in sub-clause (iii) the word "or" at the end shall be deleted ;
 - (ii) for the full-stop occurring at the end of sub-clause (iv) a comma shall be substituted and thereafter the word "or" shall be added ;
 - (iii) after sub-clause (iv) the following shall be added as new sub-clause (v)—
"(v) suffers from any of the disqualifications mentioned in clauses (a) to (m) of section 5-A ;" and
- (2) after clause (g), the following shall be added as a new clause (h)—
"(h) remove a person, if, having been elected as a Pradhan, he does not possess the qualification specified in section 5-B."

6. Validation.—For the removal of doubts it is hereby declared that—

- (a) all orders made (except an order or judgment which has already been set aside before the commencement of Act), actions or proceedings taken, directions issued or jurisdiction exercised by any Additional Sub-divisional Officer, prior to the said commencement, under or in accordance with the provisions of the Principal Act or any rules made thereunder, which would have been validly and properly made, taken, issued or exercised, as the case may be, if clause (ss) had been part of section 2 of the Principal Act, shall be and be deemed to have been as good and valid in law as if the amendments made in section 2 of the Principal Act by this Act had been in force at all material dates ; and
 - (b) all applications for questioning elections pending at the commencement of this Act before any Additional Sub-divisional Officer shall be decided as if the provisions of clause (ss) of section 2 of the Principal Act had been in force at all material dates.
-

Appendix C

THE U. P. PANCHAYAT RAJ (AMENDMENT) ACT, 1960

(U. P. Act No. XV of 1960)

*[Received the assent of the Governor on August 22, 1960 and published in
U. P. Gazette, Extraordinary, dated August 24, 1960]*

An Act to amend the U. P. Panchayat Raj Act, 1947 ;

WHEREAS it is necessary to amend the U. P. Panchayat Raj Act, 1947 for the purposes hereinafter appearing ;

It is hereby enacted in the Eleventh Year of the Republic of India as follows :

1. **Short title.**—This Act may be called the Uttar Pradesh Panchayat Raj (Amendment) Act, 1960.

2. **Amendment of Section 2 of U. P. Act XXVI of 1947.**—In Section 2 of the U. P. Panchayat Raj Act, 1947 (hereinafter called the "Principal Act")—

(a) in clause (b) for the word "established" substitute the word "constituted" ; and

(b) after clause (k), add the following as a new clause (kk) :

"(kk) 'Nirvachan Nideshak (Panchayat)' means an officer appointed by the State Government in this behalf by notification in the Official Gazette and any officer to whom the Nirvachan Nideshak (Panchayat) delegates any of his powers and functions shall be deemed to be Nirvachan Nideshak (Panchayat) for the purposes of the exercise or performance of such power or function."

3. **Amendment of Section 9 of U. P. Act XXVI of 1947.**—Renumber existing section 9 of the Principal Act as sub-section (1) thereof and thereafter add the following as sub-section (2) :

"(2) Notwithstanding anything contained in this Act, no person who is not, and every person who is, for the time being, entered in the register as member, shall be entitled to vote at any election or in any other proceeding under this Act or the rules framed thereunder, or to be elected, nominated or appointed to any office in the Gaon Sabha, Gaon Panchayat or Nyaya Panchayat."

4. **Substitution of Section 11-B of U. P. Act XXVI of 1947.**—For the existing section 11-B of the Principal Act, substitute the following :

"11-B. Election and term of Pradhan.—(1) The Pradhan shall be elected by the members of the Gaon Sabha from amongst themselves in such manner as may be prescribed.

Provided that when a Gaon Sabha has failed to so elect, it shall be called upon to elect the Pradhan, but if it again fails, it shall be lawful for the State Government or the prescribed authority to nominate as Pradhan, a member of the Gaon Sabha qualified to be chosen as Pradhan and the person so nominated shall be deemed to be duly elected.

(2) The term of a Pradhan shall commence from the date of the constitution of the Gaon Panchayat or from the date of his being elected or nominated, whichever is later, and unless otherwise determined under the provisions of this Act, shall expire with the term of the Gaon Panchayat."

5. **Substitution of Section 11-D of U. P. Act XXVI of 1947.**—For the existing section 11-D of the Principal Act, substitute the following :

"**11-D Prohibition against holding certain offices simultaneously.**—No person shall simultaneously—

- (a) be the Pradhan of Gaon Sabha and a member (other than *ex-officio*) of a Gaon Panchayat or a Panch of a Nyaya Panchayat ; or
- (b) be a member of Gaon Panchayat and a Panch of a Nyaya Panchayat ; or
- (c) be a member of a Gaon Panchayat from more than one constituency ;
- (d) hold any office in more than one Gaon Sabha, Gaon Panchayat or Nyaya Panchayat ;

and the rules may provide for the vacation of all but one office by any person chosen to fill offices which he cannot hold simultaneously."

6. **Substitution of Section 12 of U. P. Act XXVI of 1947.**—For the existing section 12 of the Principal Act, substitute the following :

"**12. Constitution of Gaon Panchayat.**—(1) As soon as may be, after the establishment of Gaon Sabha, there shall be constituted an Executive Committee thereof called the Gaon Panchayat.

(2) Unless terminated earlier under section 12-G, the term of every Gaon Panchayat shall be five years or, if the State Government so declares by notification in the Official Gazette, such longer term not exceeding six years as it may fix.

(3) The declaration under sub-section (2) may be made before the expiry of five years aforesaid or, when the term has been extended, before the expiry of such extended term.

(4) There shall be a general election in the manner prescribed to constitute or re-constitute Gaon Panchayats.

(5) The constitution of a Gaon Panchayat shall be notified in such manner as may be prescribed and thereupon the Gaon Panchayat shall be deemed to have been duly constituted, any vacancy therein notwithstanding :

Provided that the prescribed authority shall not so notify till at least two-thirds of the members of the Gaon Panchayat and the Pradhan have been elected or nominated.

(6) The area of a Gaon Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election.

(7) The members of the Gaon Panchayat shall be elected by the members of the Gaon Sabha from amongst themselves. Their number shall be such as may be prescribed and the Pradhan and Up-Pradhan shall *ex-officio* be the Pradhan and Up-Pradhan of the Gaon Panchayat.

(8) The term of a member of Gaon Panchayat shall, unless otherwise determined under the provisions of this Act, expire with the term of the Gaon Panchayat.

(9) Seats shall be reserved for the Scheduled Castes in the Gaon Panchayat and the number of seats so reserved shall bear as nearly as may be the same proportion to the total number of seats in the Gaon Panchayat as the population of the Scheduled Castes in the area of the Gaon Sabha bears to the total population of such area :

Provided that this provision shall have effect only upon the date upto which reservation of such castes exists under the Constitution of India :

Provided further that nothing in the preceding proviso shall affect any representation in the Gaon Panchayat until a fresh election is held.

(10) Where a Gaon Sabha has failed to elect the full number of members prescribed under sub-section (7), it shall be called upon to elect the remaining number, but if it again fails to elect the full number, it shall be lawful for the State Government or the prescribed authority to fill in any seat so remaining vacant by nomination from amongst the members of Gaon Sabha and any person so nominated shall be deemed to have been duly elected."

7. Deletion of Section 12-A of U. P. Act XXVI of 1947.—Delete section 12-A of the Principal Act.

8. Amendment of section 12-B of U. P. Act XXVI of 1947.—After section 12-B of the Principal Act, add the following as a new section 12-BB :

"12-BB. Superintendence of Elections.—All elections (including bye-elections and nominations) of members of Gaon Panchayats, and of Pradhans of Gaon Sabhas shall be conducted under the supervision and control of the Nirvachan Nideshak (Panchayat), who may also set aside or modify any order or declaration relating to such election passed or made without jurisdiction or in violation of any provision of this Act or the rules made thereunder by any officer or official entrusted with duties relating to the conduct of such election."

9. Amendment of Section 12 C of U. P. Act XXVI of 1947.—In subsection (1) of section 12-C of the Principal Act, for the words "a person who may be appointed" substitute the words, "a person appointed."

10. Substitution of Section 12-D of U. P. Act XXVI of 1947.—For the existing section 12-D of the Principal Act, substitute the following :

"12 D. Disputes pertaining to the election of Up Pradhan, Sarphanch, or Sahayak Sarpanch.—The provisions of section 12-C shall *mutatis mutandis* apply to the election of person as Up-Pradhan of a Gaon Sabha or as Sarpanch or Sahayak Sarpanch of a Nyaya Panchayat.

11. Amendment of Section 12-E of U. P. Act XXVI of 1947.—In section 12-E of the Principal Act, for the figures and letters "11-B, 12-A" substitute the figure "12".

12. Substitution of Section 12-G of U. P. Act XXVI of 1947.—For the existing section 12-G of the Principal Act, substitute the following :

'12-G Reconstitution of Gaon Panchayat etc.—Notwithstanding anything contained in this Act, the State Government may—

(1) at any time order reconstitution of Gaon Panchayats in the whole State or in any specified area thereof and thereupon the term of such Gaon Panchayats shall be deemed to have expired and fresh elections, nominations and appointments may take place accordingly ; and

(2) when there is any change in the jurisdiction of the Nyaya Panchayat, order such changes in the constitution of the Nyaya Panchayat as it considers necessary in view of the jurisdiction."

13. Substitution of Sections 42 and 43 of U. P. Act XXVI of 1947.—*For the existing sections 42 and 43 of the Principal Act, substitute the following :*

"**42. Establishment of Nyaya Panchayat.**—(1) The State Government or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of the Gaon Sabhas as may be expedient, and establish a Nyaya Panchayat for each such circle :

Provided that the areas of Gaon Sabhas within each circle shall, as far as possible, be contiguous.

(2) Subject to a minimum of ten and a maximum of twenty-five, every Nyaya Panchayat shall have such number of members, as may be prescribed, but it shall be lawful for a Nyaya Panchayat to function notwithstanding any vacancy therein ; provided the number of Panches therein is not less than two-thirds of the prescribed strength.

43. Appointment of Panches and their term.—(1) There shall be appointed by the prescribed authority out of the members of a Gaon Panchayat such number of persons, as may be prescribed, to be Panches of Nyaya Panchayat and thereupon the persons so appointed shall cease to be members of the Gaon Panchayat and their seats in the Gaon Panchayat shall be filled, as far as may be, in the manner provided in section 12.

(2) No person may be appointed as a Panch of the Nyaya Panchayat unless he has the qualifications that may be prescribed :

Provided that where suitable persons having the prescribed qualifications are not available for such appointment any or all of such qualifications may, by an order in writing, be relaxed by the prescribed authority."

14. Substitution of Section 45 of U. P. Act XXVI of 1947.—*For the existing section 45 of the Principal Act, substitute the following :*

"**45. Term of a Panch.**—The term of every Panch of a Nyaya Panchayat shall commence on the date of his appointment as such and unless otherwise determined under the provisions of this Act, shall expire with the term of the Gaon Panchayat, from which he was appointed :

Provided that the Sarpanch and Sahayak Sarpanch shall continue in office until their respective successors are elected or appointed.

15. Amendment of Section 110 of U. P. Act XXVI of 1947.—In sub-section (2) of section 110 of the Principal Act.—

(a) *For clause (ii), substitute the following :*

(ii) the establishment of Gaon Sabha or Nyaya Panchayat or the constitution of Gaon Panchayat ;"

(b) in clause (i-g) add the following after the word "Panchayat" and before the semi colon :

"and Pradhans and the appointment of Panches of Nyaya Panchayat."

16. Savings.—Nothing contained in this Act shall affect the existing Pradhans, Gaon Panchayats and Nyaya Panchayats, who or which shall until the re-election of Pradhans or reconstitution of Gaon Panchayats and Nyaya Panchayats, as the case may be, in accordance with the provisions of the Principal Act as amended by this Act, continue as if this Act had not been passed.

Appendix D
**UTTAR PRADESH PANCHAYAT RAJ (SANSHODHAN)
ACT, 1961***

(U. P. Act No. III of 1961)

An Act to amend the Uttar Pradesh Panchayat Raj Act, 1947.

Whereas the Uttar Pradesh Panchayat Raj (Sanshodhan) Adhyadesha, 1960, was promulgated by the Governor on December 10, 1960, to amend the Uttar Pradesh Panchayat Raj Act, 1947, for certain purposes.

And whereas it is expedient and necessary that the said ordinance which shall cease to operate at the expiration of six weeks from the re-assembly of the legislature under Article 213 (2) (a) of the Constitution of India, be replaced by an Act of the legislature;

It is hereby enacted in the Twelfth Year of the Republic of India as follows.

1. *Short title.*—This Act may be called the Uttar Pradesh Panchayat Raj (Sanshodhan) Adhiniyam, 1961.

2. For sub-section (2) of Sec. 9 of the U. P. Panchayat Raj Act, 1947 (hereinafter called the "Principal Act") the following shall be substituted :

"(2) No person who is not, and except as otherwise provided by this Act, every person who is for the time being entered in the register of members, shall be entitled to vote at any election or in any other proceeding under this Act or the Rules framed thereunder, to be elected, nominated or appointed to any office in the Gaon Sabha, Gaon Panchayat or Nyaya Panchayat."

3. After Sec. 12 of the Principal Act, the following shall be added as a new Sec. 12-A :

Manner of voting

"12-A. A member of Gaon Sabha shall—

(a) in the case of election of member of Gaon Panchayat—

(i) vote in person and by show of hand ;

(ii) be entitled to vote only in the constituency of the Gaon Sabha of which he is a member ; and

(iii) have as many votes as there are contesting candidates, so however, that no member shall cast more than one vote in favour of the same candidate ;

(b) in the case of election of Pradhan of a Gaon Sabha—cast vote by marking the ballot paper at the place of polling in the manner prescribed."

4. The Uttar Pradesh Panchayat Raj (Sanshodhan) Adhyadesha, 1960 is hereby repealed and the provisions of Sections 6 and 24 of the U. P. General Clauses Act, 1904, shall apply as if it were an enactment repealed and re-enacted by an Uttar Pradesh Act.

*Received assent of the Governor on March 15, 1961 was published in U. P. Gazette Extraordinary dated March 17, 1961)

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